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JOINT COMMITTEE ON ADMINISTRATIVE RULES

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Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

Issue 16-April	14, 2000:	Data Through March	31, 2000
Issue 29-July	14, 2000:	Data Through June	30, 2000
Issue 42-October	13, 2000:	Data Through September	30, 2000
Issue 3-January	19, 2001:	Data Through December	31, 2000 (Annual)

REGISTER PUBLICATION SCHEDULE 2001

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 26, 2000	January 5, 2001	Issue 28	July 2	July 13
Issue 2	January 2, 2001*	January 12	Issue 29	July 9	July 20•
Issue 3	January 8	January 19	Issue 30	July 16	July 27
Issue 4	January 16*	January 26	Issue 31	July 23	August 3
Issue 5	January 22	February 2	Issue 32	July 30	August 10
Issue 6	January 29	February 9	Issue 33	August 6	August 17
Issue 7	February 5	February 16	Issue 34	August 13	August 24
Issue 8	February 13*	February 23	Issue 35	August 20	August 31
Issue 9	February 20*	March 2	Issue 36	August 27	September 7
Issue 10	February 26	March 9	Issue 37	September 4*	September 14
Issue 11	March 5	March 16	Issue 38	September 10	September 21
Issue 12	March 12	March 23	Issue 39	September 17	September 28
Issue 13	March 19	March 30	Issue 40	September 24	October 5
Issue 14	March 26	April 6	Issue 41	October 1	October 12
Issue 15	April 2	April 13	Issue 42	October 9*	October 19
Issue 16	April 9	April 20	Issue 43	October 15	October 26
Issue 17	April 16	April 27	Issue 44	October 22	November 2
Issue 18	April 23	May 4	Issue 45	October 29	November 9
Issue 19	April 30	May 11	Issue 46	November 5	November 16
Issue 20	May 7	May 18	Issue 47	November 13*	November 26**
Issue 21	May 14	May 25	Issue 48	November 19	November 30
Issue 22	May 21	June 1	Issue 49	November 26	December 7
Issue 23	May 29*	June 8	Issue 50	December 3	December 14
Issue 24	June 4	June 15	Issue 51	December 10	December 21
Issue 25	June 11	June 22	Issue 52	December 17	December 28
Issue 26	June 18	June 29	Issue 1	December 26 (Wed. Noon)	January 4, 2002
Issue 27	June 25	July 6			

* Tuesday 12 noon deadline following a state holiday.

** Monday publication date following a state holiday.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Animal Disease Laboratories Act2) Code Citation: 8 Ill. Adm. Code 1103) Section Number: Proposed Action:

110.50	Amend
110.70	Amend
110.80	Amend
110.90	Amend
110.100	Amend
110.110	Amend
110.120	Amend

4) Statutory Authority: Animal Disease Laboratories Act [510 ILCS 10]

5) A Complete Description of the Subjects and Issues Involved: The entire fee schedule has been reviewed and prices increased to bring the Animal Diagnostic Laboratories in line with prices at the University of Illinois College of Veterinary Medicine Laboratory. Most of these fees have not been increased since the laboratory fee system was initiated in 1985. In most cases, these fees are equal to or lower than those being charged by private laboratories.

6) Will these proposed amendments replace emergency amendments in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Do these proposed amendments contain incorporations by reference? No9) Are there any other proposed amendments pending on this Part? No10) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on Thursday, October 25, 2001 at 10:00 a.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
 Department of Agriculture
 State Fairgrounds, P.O. Box 19281
 Springfield IL 62794-9281
 Telephone: 217/785-5713

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

Facsimile: 217/785-4505

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 22, 2001. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Veterinarians and persons using the diagnostic facilities at the laboratories operated by the Department.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 110
ANIMAL DISEASE LABORATORIES ACT

- Section
110.10 Definitions
110.20 Submitting Specimens
110.30 Payment For Laboratory Services
110.40 Tests Not Covered By Fee Schedule
110.50 Minimum Fees
110.60 Euthanasia Fees
110.70 Clinical Pathology Fees
110.80 Histopathology Fees
110.90 Microbiology Fees
110.100 Parasitology Fees
110.110 Toxicology Fees
110.120 Miscellaneous Fees
110.130 Meats Chemistry Fees
110.140 Liquor Control Commission Fees

AUTHORITY: Implementing and authorized by the Animal Disease Laboratories Act [510 ILCS 10].

SOURCE: Adopted and codified at 8 Ill. Reg. 9047, effective July 1, 1984; amended at 9 Ill. Reg. 4471, effective March 22, 1985; amended at 9 Ill. Reg. 19638, effective January 1, 1986; amended at 10 Ill. Reg. 9733, effective May 21, 1986; amended at 11 Ill. Reg. 10163, effective May 15, 1987; amended at 12 Ill. Reg. 3379, effective January 25, 1988; amended at 13 Ill. Reg. 3617, effective April 15, 1989; amended at 14 Ill. Reg. 1907, effective January 19, 1990; amended at 14 Ill. Reg. 3416, effective March, 1, 1990; amended at 14 Ill. Reg. 15304, effective September 10, 1990; amended at 16 Ill. Reg. 11416, effective July 1, 1992; amended at 18 Ill. Reg. 1825, effective February 1, 1994; amended at 18 Ill. Reg. 17433, effective December 1, 1994; amended at 20 Ill. Reg. 255, effective January 1, 1996; amended at 20 Ill. Reg. 16176, effective January 1, 1997; amended at 21 Ill. Reg. 17034, effective January 1, 1998; amended at 23 Ill. Reg. 386, effective January 1, 1999; amended at 23 Ill. Reg. 9754, effective August 9, 1999; amended at 24 Ill. Reg. 990, effective January 10, 2000; amended at 24 Ill. Reg. 16606, effective November 1, 2000; amended at 25 Ill. Reg. _____, effective _____.

Section 110.50 Minimum Fees

- a) A minimum accession fee of \$5 per accession shall be charged on all accessions originating from Illinois animals, with the exception of

samples for trichinosis testing for which the minimum accession fee is \$1. If such fees for the individual tests exceed the minimum fee, no minimum fee shall be charged. Persons submitting specimens for which there are no charges for the laboratory procedure shall be exempt from the minimum fee.

- b) The necropsy fee is \$50 \$40 per accession up to four animals for all species and cadavers submitted where more than one test is needed, with an additional \$20 \$15 for each additional animal. Poultry are exempt from the additional charge for each animal over four. If multiple tissue specimens are submitted where more than one test is needed, the fee is \$50 \$35 per accession for up to four animals with an additional \$20 \$15 for each additional animal. The necropsy fee and multiple tissue specimens fee will include a test in pathology, microbiology, parasitology and toxicology as indicated by the necropsy. These fees do not include electron microscopy examination, toxicologic screens, water and feed analysis, serology or herd surveys. In cases where only a necropsy is performed without any tests, the fee is \$35 \$20 plus the disposal fee. The fee for a cosmetic necropsy for cats and dogs is \$125 \$100 (cases where the owner wants the carcass back).
- c) Electron microscopy and toxicologic tests (other than a screen for metals and pesticides) shall be performed only after consultation with and with approval from the person who requested the laboratory services at the fees set forth in this Part.
- d) All fees, including the minimum accession and necropsy fee, shall be doubled on all out-of-state owners, unless a specific charge is noted or the sample is referred from another state diagnostic laboratory at which time only the in-state fee will be charged.
- e) Serologic tests on paired, acute and convalescent specimens will be billed as one accession at the fee set forth in this Part.
- f) Accessions submitted as "rush priority" specimens shall be charged at twice the normal rate. This charge shall apply to any submission requesting service at a rate faster than the normal laboratory routine turnaround time for the requested test (e.g., before the regularly scheduled day, before other samples or on days requiring additional personnel time such as weekends or holidays). For cases where there is no in-state fee (i.e., pseudorabies or bovine or swine brucellosis), the fee shall be as for out-of-state samples.
- g) The fee for accessions up to four animals or multiple tissues from up to four animals for the following work-ups will be as indicated, with an additional \$20 \$15-00 for each additional animal. Poultry are exempt from the additional charge for each additional animal over four.

- 1) Porcine Abortion Work-up..... \$75.0050-00 C, G
2) Bovine Abortion Work-up..... 75.00 C, G
3) Respiratory or Enteric Diagnostic Work-up..... 75.0050-00 C, G
4) Equine Abortion Work-up..... 75.00 C, G

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

1) Bilirubin--Total and Direct.....	10.00 C
Total Only.....	5.00 C
Direct Only.....	5.00 C
Electrolytes (Ca, P, Mg, K, and Na).....	15.00+2-00 C
Calcium.....	5.00+00 C, G
Chloride.....	5.00+00 C
Cholesterol, Total.....	5.00+00 C
Creatinine.....	5.00+00 C
Glucose.....	5.00+00 C
Phosphorus.....	5.00+00 C, G
Lactic Acid.....	5.00+00 C
Potassium.....	5.00+00 C
Total Protein.....	5.00+00 C, G
Albumin.....	5.00+00 C
Sodium.....	5.00+00 C, G
Blood Urea Nitrogen.....	5.00+00 C
Uric Acid.....	5.00+00 C
Zinc.....	5.00+00 C
Magnesium.....	5.00+00 C
Copper.....	5.00+00 C
Iron.....	5.00+00 C
e) Other Tests	
1) Calculi Analysis, Qualitative.....	10.00 C
2) Semen Examination.....	10.00 C, G
3) Cytology Transudate/Exudate	
Cytology Examination Only.....	18.00 C, G
Complete (i.e., Count, SG, TP, Sugar, Culture).....	20.00 C, G
4) Spinal Fluid (Cytology, SG, TP).....	10.00 C, G
(Source: Amended at 25 Ill. Reg. _____, effective _____)	

Section 110.80 Histopathology Fees

- a) The following are the fees for histopathology:
- 1) Biopsy (tissue)..... 30.00+25-00 C, G
 - 2) Multiple Tissues
 - {2-52-4 tissues}..... 40.00+35-00 C, G
 - 6 or more..... 50.00 C, G
 - 3) Immunohistochemistry testing..... 10.00 C, G
- b) In the event some specialty testing situation is requested by the person requesting the laboratory services, other fixatives are available. Please consult the respective diagnostic laboratory for the specific fee.
- (Source: Amended at 25 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

5) Ovine Abortion Work-up.....	75.00 C, G
(Source: Amended at 25 Ill. Reg. _____, effective _____)	

Section 110.70 Clinical Pathology Fees

The following fees apply to those specimens submitted where a necropsy is not involved; with a minimum total fee of \$5-00:

- a) Hematology:
- 1) Complete Blood Count (RBC, Hb, Ht, WBC, Diff.).....\$13.00+2-00 C, G
 - 2) Erythrocyte..... 6.00+3-00 C, G
 - 3) Leukocyte..... 5.00 C, G
 - 4) Bendixen Key..... 5.00 C, G
 - 5) Hemoglobin..... 6.00+5-00 C, G
 - 6) Hematocrit..... 6.00+5-00 C, G
 - 7) Differential..... 5.00 C, G
 - 8) Eosinophil Count--Total..... 5.00 C
 - 9) Stippling..... 3.00 C, G
 - 10) Fibrinogen..... 5.00+3-00 G
 - 11) Erythrocyte Indices..... 3.00 G
 - 12) Shorr Stain (canine distemper)..... 5.00 C, G
 - 13) Hemobartonella--Acridine Orange..... 5.00 C
 - 14) Erythrocyte Parasites--Wright's Giemsa Stain..... 6.00+5-00 C, G
 - 15) Erythrocyte Sedimentation Rate..... 5.00 C
 - 16) Blood Compatibility Crossmatch..... 15.00 C
 - 17) Pandey (Qualitative Protein)..... 3.00 C
 - 18) Bone Marrow Examination..... 12.00 C, G
 - 19) Bone Marrow Examination--Examination..... 15.00+3-00 C, G
 - 20) Microfilaria, occult..... 15.00+3-00 C, G
- b) Urinalysis
- 1) Routine Chemistry and Microscopic Examination..... 9.00 C, G
 - 2) Urine Urobilinogen, Qualitative..... 3.00 G
 - 3) Urine Na..... 3.00 C
 - 4) Urine K..... 3.00 C
- c) Enzymology
- 1) SGOT (serum glutamic oxalacetic transaminase)..... 5.00+3-00 C
 - 2) SGPT (serum glutamic pyruvic transaminase)..... 5.00+3-00 C
 - 3) LDH (lactic dehydrogenase)..... 5.00+3-00 C
 - 4) Alkaline Phosphatase..... 5.00+3-00 C
 - 5) Lipase..... 6.00+5-00 C
 - 6) Amylase..... 6.00+5-00 C
 - 7) Sorbitol dehydrogenase..... 6.00+5-00 C
 - 8) Arginase 6.00+5-00 C
- d) Chemistry

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Section 110.90 Microbiology Fees

The following are the fees for microbiology:

- a) Bacteriology, Mycoplasma and Fungi
- 1) Aerobic or anaerobic culture without sensitivity testing..... 12.00±0-00 C, G
 - 2) Aerobic culture with sensitivity testing..... 20.00±5-00 C, G
 - 3) Clostridium perfringens serotyping by PCR..... 20.00±5-00 G
 - 4) Milk samples for mastitis evaluation
 - 1-4 specimens..... 15.00 C, G
 - additional specimens, each at..... 3.00±2-00 C, G
 - Wisconsin mastitis test
 - 1-10 specimens, each..... 2.00 C
 - additional specimens, each at..... 1.00 C
- 5) Leptospirosis--6 serotypes
- Microtiter test-per specimen..... 2.00 C, G
- 6) Canine brucellosis--per specimen..... 5.00 C, G
 - 7) Fluorescent Antibody Test (FA)..... 10.00 C, G
 - 8) Escherichia coli serotyping..... 3.00 C
 - 9) Campylobacter (culture)..... 10.00±0-00 C, G
 - 10) Salmonella isolation using enrichment media..... 8.00±0-00 C, G
 - 11) Hemophilus (culture)..... 3.00 C, G
 - 12) Nasal Swabs--Bordetella..... 2.00 C, G
 - 13) Listeria (culture)..... 6.00 C, G
 - 14) Haemophilus equigenitalis (CEM)..... 4.00 C, G
 - 15) Spirochetes (swine dysentery--Treponema sp.)..... 5.00±3-00 C, G
 - 16) John's Bacillus
 - first specimen..... 7.00 C, G
 - teach additional specimen..... 4.00 C, G
- 17) Prepare and Supply Transport Media (per tube)..... 1.00 C, G
- 18) Return culture for bacterin production per organism..... 2.00 C, G
- 19) Mycology Testing Culture..... 8.00±0-00 C, G
- 20) Microscopic examination..... 3.00 C
- 21) Mycoplasma Testing Culture..... 10.00 C, G
- 22) E. Coli or Metritis
- 1-4 specimens..... 15.00 C, G
- teach additional specimen..... 2.00 C, G
- Serotyping by PCR..... 20.00 C, G
- Trichomonas transport media..... 4.00 C, G
- PCR testing ~~clostridium~~ ~~perfringens~~..... 15.00 G
- Clostridium difficile toxin ELISA..... 10.00 G
- b) Virology
- 1) Electron Microscopy--fecal..... 15.00 G
 - 2) Pseudorabies Serology (positive or negative)..... no charge C, G
 - Pseudorabies Serology Out-of-State..... 3.00 C, G
 - Pseudorabies Serology (positive or

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- negative) and end titer..... 3.00 C, G
- Pseudorabies Serology (request for screen at dilution of 1:2)..... 3.00 C, G
- Pseudorabies Rush ~~batex~~ ~~Agglutination~~..... 3.00 C, G
- Pseudorabies ELISA Screen Out-of-State..... 1.50 C, G
- Pseudorabies Latex Agglutination
- Out-of-State..... 1.50 C, G
- Pseudorabies GI ELISA Out-of State..... 1.75 C, G
- 3) Fluorescent Antibody Test
- teach disease - food animal..... 10.00 C, G
- Fluorescent Antibody Test
- each disease - non-food animal..... 15.00 C, G
- 15.00±0-00 C, G
- 4) Rabies..... 10.00 C, G
- 5) Virus Isolation in Cell Culture
- 1 specimen..... 15.00 C, G
- Each additional specimen..... 10.00 C, G
- 6) Viral Serology (each disease)
- 1-5 specimens, each..... 3.00 C, G
- Each additional specimen..... 1.00 C, G
- 7) Feline Leukemia Virus..... 11.00±0-00 C
- 8) Feline Infectious Peritonitis (F.I.P.)..... 8.00±5-00 C
- 9) Canine parvo-virus (ELISA) fecal..... 5.00 C, G
- 10) Canine parvo-virus serum..... 5.00 C
- 11) Canine distemper on serum..... 5.00 C
- 12) Rota-virus on fecal..... 10.00 C
- 13) Semen testing (export)..... 10.00 C
- 14) Swine enterovirus (8 serotypes)..... 12.00 C
- 15) FeLV-FeLT..... 15.00 C
- 16) Porcine fetal fluid IgG..... 3.00 G
- 17) Feline lentivirus (FeLT)..... 10.00 C
- 18) Encephalomyocarditis
- 1-5 specimens, each..... 3.00 C, G
- Each additional specimen..... 1.00 C, G
- 19) PRRS (screening 1:20)..... 2.00 G
- PRRS end titer..... 4.00 C, G
- PCR/PRRS..... 10.00 G
- 20) Bovine virus diarrhea, AI Screen by IHL, skin
- 1-5 animals each..... 15.00 C, G
- Each additional specimen..... 3.00 C, G
- c) Chlamydia Isolation in Cell Culture..... 15.00 C, G
- d) Miscellaneous serology
- 1) Toxoplasmosis
 - first sample..... 5.00 C
 - Each additional sample..... 2.50 C
 - 2) EIA-AGID..... 2.50 S
 - EIA-CELISA..... 10.00 S
 - 3) Mare Immunological Pregnancy Test
 - 35-60 days post-service..... 15.00 C

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4)	Aleutian Disease-Mink (immuno-electrophoresis).....	.20	C, S
5)	Out-of-State brucellosis serology.....	.50	C, G, S
6)	Brucellosis testing other than bovine, porcine and canine.....	.50	C, G, S
7)	<u>Brucella canis slide assay</u>	6.00	C, G
	Bluetongue		
	†1-5 specimens, each†.....	3.00	C
	†Each additional specimen†.....	2.00	C
	†Each additional specimen†.....	1.00	C, S
8)	Bovine leukemia virus (BLV-AGID)		
	†1-5 specimens, each†.....	3.00	C7-S
	†Each additional specimen†.....	1.00	C7-S
9)	Vesicular stomatitis		
	†1-5 samples each†.....	3.00	C
	†Each additional sample†.....	2.00	C
10)	Complement Fixation Serology		
	†1-5 specimens, each†.....	3.00	C
	†Each additional specimen†.....	1.00	C
	Note: The Complement Fixation Serology tests include testing for anaplasmosis, <u>Johne's</u> and chlamydia.		
11)	<u>Johne's ELISA</u>		
	1-10 specimens, each.....	10.00	C
	11 or more specimens, each.....	5.00	C
12)	Actinobacillus pleuropneumoniae per serotype APP).....	2.00†-00	G
13)	Mycoplasma hyopneumoniae.....	3.00	G
14)	Caprine Arthritis Encephalitis (CAE).....		
	first specimen.....	3.00	C, G
	each additional specimen.....	1.00	C, G
15)	Bovine leukemia virus ELISA		
	†1-5 specimens, each†.....	5.00	C
	each additional specimen.....	3.00	C
16)	<u>Dirofilaria immitis</u>	10.00	C, G

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 110.100 Parasitology Fees

The following are the fees for parasitology:

- Morphologic examination--ecto and endoparasites..... 6.00†-00 C, G
- Baermann or Digestion..... 5.00 G
- Trichomonas fetus (Venereal trichomoniasis in cattle) Examination and culture of vaginal washings (including carrier media)

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1-4 specimens.....	10.00	C, G
Additional specimens, each.....	2.00	C, G
d) Occult Dirofilaria serology (ELISA).....	8.00	C
e) Tissue Digestion Procedure (trichina).....	.10	C7-S
f) Helminth ova in sludge.....	5.00	C
g) Cryptosporidia ELISA.....	15.00	C
h) Giardia/Cryptosporidia FA.....	10.00	G
(Source: Amended at 25 Ill. Reg. _____, effective _____)		

Section 110.110 Toxicology Fees

- A maximum charge of \$100 shall be assessed Illinois residents. There is no maximum charge for out-of-state residents.
- Toxicology Work-up: Maximum \$50 per animal or \$100 per herd (Illinois animals).
- Metals
 - Arsenic or Selenium
 - 1-3 specimens, each..... 25.00†-00 C
 - each additional specimen..... 10.00 C
 - Lead, Copper, Zinc, Thallium, Calcium, Sodium, Manganese, Potassium, Iron, Chromium, Cobalt, Nickel, or Manganese
 - 1-3 specimens, each..... 8.00 C
 - each additional specimen..... 5.00 C
 - Cadmium, Molybdenum and Mercury
 - 1-3 specimens, each..... 10.00 C
 - each additional specimen..... 6.00 C
- Insecticide Screen
 - Organochlorines, organophosphates..... 45.00†-00 C
 - Carbamates..... 45.00†-00 C
 - Individual insecticide..... 20.00 C
 - Ivermectin:
 - Blood..... 25.00 C
 - Tissue..... 50.00 C
- Herbicides
 - Phenoxy compounds screen..... 50.00†-00 C
 - Individual analysis of any herbicide from screen..... 20.00 C
 - Herbicide screen (heterocyclic nitrogen derivatives, dinitroanilines, urea, carbamate and anilide compounds)..... 50.00 C
 - Imidazole compounds..... 50.00 C
 - Individual compounds Herbicides requiring derivitization..... 30.00†-00 C
- Rodenticides
 - Anticoagulant screen..... 50.00†-00 C
 - Zinc Phosphide..... 10.00 C

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3)	Strychnine and other alkaloids.....	10.00	C
4)	Yellow Phosphorus.....	5.00	C
5)	Individual anticoagulant.....	20.00±0-00	C
6)	Fluoracetate-(1000)	20.00±0-00	e
g)	Mycotoxins		
1)	Screen (aflatoxins, T-2, DAS, Vomitoxin, Zearalenone).....	60.0050-00	C
2)	Milk or urine aflatoxin.....	20.00	C
3)	Ochratoxin.....	30.00	C
4)	Citrinin.....	30.00	C
5)	Individual analysis of any mycotoxin from screen.....	20.00	C
6)	Cyclopiazonic acid (CPA).....	30.00	C
7)	Blacklight for Aspergillus flavus.....	2.00	C
8)	Endophyte testing		
	Staining.....	12.50	C
	Grow-out.....	15.00	C
h)	Miscellaneous Analysis		
1)	Feed microscopy.....	15.00±0-00	C
2)	Nitrate:		
	Ground Materials		
	†first specimen†.....	8.00	C
	teach additional specimen†.....	4.00	C
	Forages		
	†first specimen†.....	12.00	C
	teach additional specimen†.....	9.00	C
	On Vitreous humor.....	5.00	C
3)	Cyanide.....	10.00	C
	Cyanide (screen-picric acid).....	5.00	C
4)	Ammonia (Urea Toxicosis)		
	first specimen.....	15.00±0-00	C
	teach additional specimen.....	5.00	C
5)	Carboxyhemoglobin, Methemoglobin, Sulfahemoglobin		
	†first specimen†.....	15.00	C
	teach additional specimen.....	5.00	C
6)	Sulfate.....	5.00	C
7)	Creosote, Petroleum Products.....	15.00	C
8)	pH.....	1.00	C
9)	Urea.....	10.00	C
10)	Total chlorides, feeds or water.....	5.00	C
11)	Monensin or other ionophore (each).....	25.00	C
12)	Water chlorine.....	5.00	C
13)	Water nitrate, nitrite (each).....	5.00	C
14)	Water hydrogen sulfide.....	5.00	C
15)	Water hardness.....	5.00	C
16)	Pentachlorophenol (PCP or Penta).....	20.00±5-00	C
17)	Bone--Percent Ash, Ca, Po4.....	12.00	C
18)	Ca, Po4 (in feed).....	10.00	C
19)	Ergot alkaloids.....	15.00	C

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20)	Antibiotics in feed (each).....	15.00	C
21)	Vitamin Analysis (each).....	10.00	C
22)	Feed Quality Analysis.....	30.00	C
23)	Protein and moisture analysis.....	7.50	C
24)	Gas chromatographic/mass spectrophotometric analysis (each sample).....	50.00	C
25)	Cholinesterase:		
	Blood		
	†first specimen†.....	10.00	C
	teach Each additional specimen†.....	5.00	C
	Brain		
	†first specimen†.....	15.00	C
	teach Each additional specimen†.....	10.00	C
26)	Drug screen.....	25.00	C
27)	Sulfa residue (each sulfa drug).....	5.00	C
28)	Water quality screen (CH, OP, Carbamates, Herbicides, Lead).....	100.00	C
29)	Total dissolved solids (Water).....	5.00	C
30)	Specific gravity (Water).....	5.00	C
31)	Polychlorinated biphenyls (PCB).....	50.00	C
32)	Sugar analysis (each).....	20.00	C
33)	Ethylene glycol.....	20.00	C
34)	Fiber.....	5.00	C
35)	Feed particle size.....	5.00	C
36)	Total suspended solids.....	5.00	C
(Source: Amended at 25 Ill. Reg. _____, effective _____)			
Section 110.120 Miscellaneous Fees			
a)	Swine health checks at slaughter facilities:		
	Market swine health check per head with a minimum of 10 head	5.00	
	(Contact the Galesburg laboratory for information)		
b)	Water potability test (Coliform and Enterococcus--Millipore Method and Nitrates).....	8.00	C
c)	Return of shipping container.....	current postal rate	C, G, S
d)	Field trip by Department laboratory personnel to take specimens.....	60.0050-00	C, G
e)	Cremation		
	†under 50 pounds†.....	50.00	G
	50 pounds and above, each additional pound.....	1.00	G
f)	Handling fee for sending specimens to out-of-state laboratories.....	5.00	C, G, S
g)	Lysine.....	40-00	e
h)	Amino-acids.....	40-00	e
i)	Trihalomethanes-(THM-s).....	75-00	e

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- j) Volatile-Organic-Compounds-----300.00 e
gk) Disposal Fee: (when lab tests have not been conducted,
a disposal fee will be charged in addition to any
cremation costs)
under 50 pounds..... 5.00 C, G, S
50 pounds to 100 pounds..... 10.00 C, G, S
Over 100-400 pounds..... 17.00±5.00 C, G7-S
over 400 pounds..... 30.00 C, G
h) Overnight shipping.....current postal rate C, G, S
im) Shipping containers.....current market price C, G, S
jn) Pullorum antigen per ml..... 2.00 S

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Illinois Bovidae and Cervidae Tuberculosis
Eradication Act
2) Code Citation: 8 Ill. Adm. Code 80
3) Section Number: Proposed Action:
80.80 Amend
80.170 Amend
80.180 Add
80.190 Add
4) Statutory Authority: Illinois Bovidae and Cervidae Tuberculosis
Eradication Act [510 ILCS 35]

5) A Complete Description of the Subjects and Issues Involved: The regulation regarding testing requirements for bison entering Illinois will be revised to require that bison from accredited free states either originate from an accredited free herd or have an individual test within 30 days prior to importation, and bison originating from non-accredited free states will be required to originate from herds where a complete herd test has been conducted within the past two years, and the animals being imported have had two individual tests 180 and 30 days prior to importation.

Feeder cattle entering Illinois from non-accredited states are required to originate from a herd where a complete negative herd test has been conducted within the past year, and the individual animals tested negative within 30 days prior to importation (Section 80.160). Section 80.80 will be amended to include the same requirements as Section 80.160.

Illinois animals being exhibited in non-accredited free states will be required to be isolated upon return to Illinois and retested for tuberculosis 60-120 days after re-entry.

A prior permit will be required for all cattle, bison, cervidae and goats entering Illinois for any reason other than immediate slaughter from non-accredited tuberculosis states.

- 6) Will these proposed amendments replace emergency amendments in effect? No
7) Does this rulemaking contain an automatic repeal date? No
8) Do these proposed amendments contain incorporations by reference? No
9) Are there any proposed amendments to this Part pending? No
10) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local governments.

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- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on Thursday, October 25, 2001 at 10:00 a.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield IL 62794-9281
Telephone: 217/785-5713
Facsimile: 217/785-4505

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 22, 2001. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Animal exhibitors.

B) Reporting, bookkeeping or other procedures required for compliance: Additional testing of animals originating in non-accredited free states will be required for the animals to meet entry requirements.

C) Types of professional skills necessary for compliance: No additional professional skills are needed.

- 13) Regulatory agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

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TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
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PART 80

ILLINOIS BOVIDAE AND CERVIDAE TUBERCULOSIS ERADICATION ACT

Section	Definitions/Incorporations by Reference
80.5	Requirements for Illinois Tuberculosis-Free Accredited Cattle and Bison Herds
80.10	When Indemnity Will Be Paid on Tests
80.20	Herds Quarantined Because of Suspected Tuberculosis Infection
80.30	Identification Tags Not To Be Removed
80.40	Infected Herd Depopulation (Repealed)
80.50	Cattle for Immediate Slaughter (Repealed)
80.60	Feeding or Grazing Cattle from Non-Accredited Tuberculosis Free States
80.70	Female Cattle--Beef Breeds--18 Months and Over from Non-Accredited Tuberculosis Free Areas
80.80	Sale of Quarantined Feeding or Grazing Cattle (Repealed)
80.90	Release of Feeding or Grazing Cattle from Quarantine (Repealed)
80.100	Breeding Cattle
80.110	Tuberculin Tests
80.120	Establishing and Maintaining Accredited Tuberculosis-Free Goat Herds
80.130	Cervidae
80.140	Goats
80.150	Testing Requirements for Cattle from Non-Accredited Free Areas
80.160	Bison
80.170	Illinois Exhibition Animals Returning from Non-Accredited Free States
80.180	Animals Entering Illinois from Non-Accredited Free States or Areas:
80.190	Permit Required

AUTHORITY: Implementing and authorized by the Illinois Bovidae and Cervidae Tuberculosis Eradication Act [510 ILCS 35].

SOURCE: Regulations Relating to Bovine Tuberculosis, filed January 17, 1972, effective January 27, 1972; filed June 21, 1976, effective July 1, 1976; filed December 29, 1976, effective January 8, 1977; amended at 2 Ill. Reg. 24, p. 1, effective June 15, 1978; codified at 5 Ill. Reg. 10455; amended at 7 Ill. Reg. 1742, effective January 28, 1983; amended at 8 Ill. Reg. 17809, effective October 1, 1984; amended at 9 Ill. Reg. 4503, effective March 22, 1985; amended at 9 Ill. Reg. 18432, effective November 19, 1985; emergency amendment at 11 Ill. Reg. 5326, effective March 13, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10183, effective May 15, 1987; amended at 12 Ill. Reg. 8295, effective May 2, 1988; amended at 13 Ill. Reg. 3676, effective March 13, 1989; amended at 14 Ill. Reg. 1931, effective January 19, 1990; amended at 21 Ill. Reg. 17070, effective January 1, 1998; amended at 23 Ill. Reg. 428, effective

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Areas; Permit Required

Any cattle, bison, cervidae or goats entering Illinois for any reason other than immediate slaughter are required to obtain a prior permit from the Department that is good for 72 hours.

- a) The applicant for permit shall furnish the following information to the Department:
- 1) name and mailing address of Illinois destination;
 - 2) name and address of consignor; and
 - 3) number of animals in shipment.
- b) Grounds for refusal to issue a permit are:
- 1) violation of the Act or any rule contained in this Part; and
 - 2) presence of a disease that might endanger the Illinois livestock industry.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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January 1, 1999; amended at 23 Ill. Reg. 9775, effective August 9, 1999; amended at 24 Ill. Reg. 1003, effective January 10, 2000; emergency amendment at 24 Ill. Reg. 8613, effective June 15, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 16623, effective November 1, 2000; amended at 25 Ill. Reg. _____, effective _____.

Section 80.80 Female Cattle--Beef Breeds--18 Months and Over from Non-Accredited Tuberculosis Free Areas

Female cattle of the beef breeds 18 months of age and over, for feeding or grazing purposes only, may enter Illinois from Non-Accredited Tuberculosis Free States, or may be shipped from public stockyards within the State, if they are accompanied by an official interstate health certificate showing that the animals originate from a herd where a complete negative herd test has been conducted within the past 12 months, and the individual animals must have an individual negative tuberculin test conducted within 30 60 days prior to entry.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 80.170 Bison

Accredited--free--state--is-not-recognized-for-bison-entering-Illinois: Bison entering Illinois for any reason, other than immediate slaughter and including exhibition, must:

- a) if originating from an accredited free state, be originate from an accredited tuberculosis-free herd, or and the individual animal entering Illinois must have had an individual test within 30 days prior to entry; or
- b) if originating from a non-accredited free state, originate originate from a herd where a complete negative herd test has been conducted within the past 12 months, and the individual animal must have had two negative tests within 180 and 30 days prior to entry.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 90.180 Illinois Exhibition Animals Returning from Non-Accredited Free States

Any Illinois cattle, bison, cervidae or goats being exhibited in non-accredited free states must be isolated from the remainder of the herd/flock upon return to Illinois and retested for tuberculosis 60-120 days post entry.

(Source: Added at 25 Ill. Reg. _____, effective _____)

Section 80.190 Animals Entering Illinois from Non-Accredited Free States or

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1) Heading of the Part: Diseased Animals2) Code Citation: 8 Ill. Adm. Code 853) Section Number: Proposed Action:

85.5	Amend
85.10	Amend
85.12	Amend
85.15	Amend
85.55	Amend
85.75	Amend
85.80	Amend
85.115	Amend
85.120	Amend
85.135	Amend
85.140	Amend
85.145	Add

4) Statutory Authority: Illinois Diseased Animals Act [510 ILCS 50], Section 6 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30], Livestock Auction Market Law [225 ILCS 640] and Equine Infectious Anemia Control Act [510 ILCS 65].5) A Complete Description of the Subjects and Issues Involved: All references to the Code of Federal Regulations (CFR) will be updated to the most recent edition and any new editions of the Brucellosis Uniform Methods and Rules, the Voluntary Scrapie Flock Certification Program, the Voluntary Johne's Disease Herd Status Program, or the National Paratuberculosis Certification Program, if published.

West Nile Virus will be added to both the reportable diseases and the contagious or infectious diseases lists.

Herds that have been restricted due to Johne's disease will have the restrictions removed if the herd enrolls in the Voluntary Paratuberculosis (Johne's Disease) Risk Management Program.

The scrapie program will be revised to make Illinois a consistent state under the U.S. Department of Agriculture's scrapie program. This will include the requirement that Illinois goats and sheep be individually identified when moving into or within the State, and a health certificate issued within 30 days for Illinois sheep and goats changing ownership or being exhibited within the State. Movement restrictions will be established for animals originating from source or infected flocks, or designated as high-risk animals.

Restrictions will be adopted regarding the movement of cervids into and within Illinois from herds where Chronic Wasting Disease (CWD) has been

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diagnosed within the last 60 months, and develop a CWD herd monitoring program. A statement on the import health certificate regarding the CWD status of the herd will be required.

Herds enrolling in the Voluntary Johne's Disease Herd Certification Program or the Risk Management Program will be able to do the annual testing on a split herd testing program, if the program is included in the annual herd plan.

Johne's disease culture positive animals will be "J" punched in the left ear. Herd with culture positive animals will be restricted until the culture positive animals have been eliminated from the herd and the herd has been enrolled in either of the two Johne's disease programs.

Herds enrolled in the Johne's Disease Risk Management Program will have the option of purchasing animals from a herd of unknown status if the purchased animal is kept isolated from the other members of the herd until a negative organism detection test has been conducted.

6) Will these proposed amendments replace emergency amendments in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Do these proposed amendments contain incorporations by reference? No9) Are there any other proposed amendments pending on this Part? No10) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local government.11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on Thursday, October 25, 2001 at 10:00 a.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield IL 62794-9281
Telephone: 217/785-5713
Facsimile: 217/785-4505

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 22, 2001. All comments

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received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Sheep, goat, cattle and bison producers.
- B) Reporting, bookkeeping or other procedures required for compliance: Herds restricted for John's disease will have an alternative method for having the movement restrictions lifted. Sheep and goat owners moving their animals within the State will be required to obtain a health certificate from an accredited veterinarian prior to movement. This health certificate is valid for 30 days. Additionally, all sheep and goats moving in Illinois or changing ownership will be required to have a unique identification. Herds with a positive diagnosis of Chronic Wasting Disease (CWD) will be restricted in movement and herd owners will be required to develop a monitoring program for their herd.

- C) Types of professional skills necessary for compliance: No additional skills necessary.

13) Regulatory agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

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PART 85
DISEASED ANIMALS

Section	Definitions
85.5	Incorporation by Reference
85.7	Reportable Diseases
85.10	Contagious or Infectious Diseases
85.12	Truck Cleaning and Disinfection
85.15	Disposal of Sick, Diseased, or Crippled Animals at Stockyards, Auction Markets, or Marketing Centers
85.20	Sale of Livestock Quarantined Because of Disease
85.25	Identification Ear Tags for Livestock
85.30	Identification Tags Not to be Removed
85.35	Livestock for Immediate Slaughter Not to be Diverted En Route
85.40	Anthrax
85.45	Goats
85.50	Scrapie in Sheep and Goats
85.55	Bluetongue
85.60	Sheep Foot Rot (Repealed)
85.65	Cattle Scabies
85.70	Cattle Scabies--Additional Requirements on Cattle From Certain Designated Areas
85.75	Sheep and Goats
85.80	Diseased Animals
85.85	Copy of Health Certificate Shall Be Furnished
85.90	Requests for Permits
85.95	Consignments to Stockyards, Auction Markets, Recognized Slaughtering Centers, or Marketing Centers
85.100	Obligation of Transportation Company and Truck Operators
85.105	Additional Requirements on Cattle From Designated States
85.110	Salmonella enteritidis serotype enteritidis
85.115	Cervidae
85.120	Ratites
85.125	Vesicular Stomatitis
85.130	Requirements for Establishing and Maintaining a Herd or Flock Under the Voluntary Paratuberculosis (John's disease) Certification Program
85.135	Requirements for Establishing and Maintaining a Herd Under the Voluntary Paratuberculosis (John's Disease) Risk Management Program
85.140	John's Disease Positive Cattle or Bison
85.145	

AUTHORITY: Implementing and authorized by the Illinois Diseased Animals Act [510 ILCS 50]; Section 6 of the Illinois Bovine Brucellosis Eradication Act

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[510 ILCS 30/6]; Livestock Auction Market Law [225 ILCS 640]; and Equine Infectious Anemia Control Act [510 ILCS 65].

SOURCE: Regulations Relating to Diseased Animals, filed January 17, 1972, effective January 27, 1972; filed August 19, 1975, effective August 29, 1975; filed December 29, 1976, effective January 8, 1977; amended at 2 Ill. Reg. 24, p. 12, effective June 15, 1978; amended at 3 Ill. Reg. 33, p. 337, effective August 17, 1979; amended at 5 Ill. Reg. 724, effective January 2, 1981; codified at 5 Ill. Reg. 10456; amended at 7 Ill. Reg. 1746, effective January 28, 1983; amended at 8 Ill. Reg. 5925, effective April 23, 1984; amended at 9 Ill. Reg. 4489, effective March 22, 1985; amended at 9 Ill. Reg. 18411, effective November 19, 1985; amended at 10 Ill. Reg. 20464, effective January 1, 1987; amended at 12 Ill. Reg. 8283, effective May 2, 1988; amended at 13 Ill. Reg. 3642, effective March 13, 1989; amended at 14 Ill. Reg. 1919, effective January 19, 1990; amended at 14 Ill. Reg. 15313, effective September 10, 1990; amended at 16 Ill. Reg. 11756, effective July 8, 1992; emergency amendment at 17 Ill. Reg. 14052, effective August 16, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 1850, effective January 24, 1994; emergency amendment at 19 Ill. Reg. 10734, effective July 10, 1995, for a maximum of 150 days; emergency expired December 17, 1995; amended at 20 Ill. Reg. 276, effective January 1, 1996; emergency amendment at 20 Ill. Reg. 6581, effective April 30, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 13039, effective September 25, 1996; amended at 21 Ill. Reg. 17049, effective January 1, 1998; amended at 23 Ill. Reg. 411, effective January 1, 1999; amended at 23 Ill. Reg. 7862, effective July 1, 1999; amended at 24 Ill. Reg. 997, effective January 10, 2000; amended at 24 Ill. Reg. 16612, effective November 1, 2000; amended at 25 Ill. Reg. _____, effective _____.

Section 85.5 Definitions

Definitions for the rules of this Part are located in the general definitions Section (8 Ill. Adm. Code 20.1) and apply to the rules of this Part. The following definitions shall also apply to the rules of this Part:

"Accredited veterinarian" means a veterinarian who is licensed by the state in which he practices, is approved by the animal health authority of that state, and is accredited by the United States Department of Agriculture (9 CFR 160, 161 and 162; 2001-1999).

"Exposed to" means an animal that has come in contact with another animal or an environment that is capable of transmitting a contagious, infectious or reportable disease. An animal will no longer be considered as "exposed to" when it is beyond the standard incubation time for the disease and the animal has been tested negative for the specific disease or there is no evidence that the animal is contagious, except for animals exposed to John's disease. Animals more than two years of age originating from a herd where John's disease has been diagnosed will be considered no longer "exposed to"

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with a negative test. The negative test must have been conducted within 30 days prior to the sale or movement. No restrictions or tests are required for animals under two years of age. An exemption to the "exposed to" language will be granted to animals originating from a herd that is enrolled in the Voluntary John's Disease Risk Management Program. Participating herds will not longer be restricted.

"Recognized slaughtering center" means an establishment where slaughtering is conducted under Federal or State inspection.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 85.10 Reportable Diseases

a) Suspected cases of the following diseases shall be reported immediately to the Department:

anthrax
avian influenza
bluetongue
brucellosis -- bovine, swine, equine, and caprine
contagious equine metritis (CEM)
equine infectious anemia (EIA)
equine viral encephalitis
fowl typhoid
hog cholera
infectious encephalomyelitis -- avian
infectious laryngotracheitis
Mycoplasma gallisepticum -- turkeys
Mycoplasma synoviae -- turkeys
Newcastle disease
paramyxovirus infection
paratuberculosis - (John's disease)
piroplasmiasis
pseudorabies -- (Aujeszky's disease)
psittacosis - (ornithosis)
pullorum disease
Q fever
rabies
salmonella enteritidis -- poultry
salmonella typhimurium -- poultry
scabies -- cattle and sheep
scrapie
transmissible spongiform encephalopathy (TSE)
trichinellosis
tuberculosis -- bovine
vesicular conditions of any type
West Nile Virus

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- any contagious or infectious disease presently considered as "exotic", i.e., not known to exist in the United States
- b) Any herd owner, flock owner, veterinarian or other person having knowledge of the disease, failing to report a suspect case of any of the above diseases immediately after discovery, or who is responsible for the spread of the disease, shall be subject to penalty as provided by law.
- c) Reports of any of the above diseases shall be made to the Department, telephone 217/782-4944.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 85.12 Contagious or Infectious Diseases

- a) The Department will designate a disease as contagious or infectious when it is determined that the disease is a threat to the animal industry. A disease will be considered a threat to the animal industry for any of the following reasons:
- 1) is of unknown cause or previously not a recognized disease;
 - 2) can cause interstate or international trade restrictions;
 - 3) is highly communicable to other animals or species;
 - 4) has the potential to produce uncontrollable death loss; or
 - 5) is not endemic in the animal industry.
- b) The following diseases are considered to be contagious or infectious:

African horse sickness
African swine fever
akabane
anthrax
avian influenza
bluetongue
Borna disease
bovine petechial fever
brucellosis
contagious bovine pleuropneumonia
contagious equine metritis (CEM)
dourine
ephemeral fever
equine infectious anemia (EIA)
equine viral encephalitis
epizootic lymphangitis
foot and mouth disease
fowl typhoid
glanders
heartwater
hemorrhagic septicemia
hog cholera
horse pox

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infectious encephalomyelitis--avian
infectious laryngotracheitis
Japanese B encephalitis
Jembrana disease
louping-ill
lumpy skin disease
Mycoplasma gallisepticum--turkeys
Mycoplasma synoviae--turkeys
Nairobi sheep disease
Newcastle disease
peste des petits--ruminants
paramyxovirus infection--avian
paratuberculosis (John's disease)
piroplasmiasis
pseudorabies (Aujeszky's disease)
psittacosis (ornithosis)
pullorum disease
Q fever
rabies
Rift Valley fever
rinderpest
salmonella enteritidis--poultry
salmonella typhimurium--poultry
scabies--cattle and sheep
scrapie
sheep and goat pox
swine vesicular disease
transmissible spongiform encephalopathy (TSE)
trichinellosis
tuberculosis
vesicular conditions of any type
vesicular exanthema of swine
Wesselsbron disease
West Nile Virus

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 85.15 Truck Cleaning and Disinfection

Any truck or other conveyance in which diseased livestock is transported shall be cleaned and disinfected immediately after the diseased livestock is unloaded as prescribed in the Code of Federal Regulations (9 CFR 71.7, 71.10 - 71.12; 2001+999).

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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Section 85.55 Scrapie in Sheep and Goats

- a) No sheep or goats which are known to be from an infected or source flock (9 CFR 79; 2001) ~~as defined in the Voluntary Scrapie-Flock Certification Program-Standards--as approved by the United States Department of Agriculture effective October 17, 1997~~ and no progeny of sheep or goats known to be from an infected or source flock shall be transported or moved into or within the State of Illinois, except as provided in 8 Ill. Adm. Code 40.190(c).
- b) Scrapie monitored herds may be established and maintained in accordance with the Voluntary Scrapie Flock Certification Program Standards.
- c) When a herd has been designated as an infected or source flock, the flock will be placed under quarantine and will remain under quarantine until the flock has been depopulated, enters into the Voluntary Scrapie Flock Certification Program, or develops an approved flock plan (9 CFR 79.1 (2001+99)). No animals will be allowed to move from the quarantined flock except for slaughter or medical treatment or examination.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 85.75 Cattle Scabies -- Additional Requirements on Cattle from Certain Designated Areas

- a) A prior permit must be obtained from the Department before cattle, except those consigned direct to slaughter, may enter Illinois from certain designated areas determined to have high incidence of cattle scabies. The Director of the Department shall have authority to specify the designated areas from which movement of cattle into Illinois will be restricted.
- b) Cattle from such areas, except those consigned to a recognized exhibition and moved from Illinois following exhibition (county and State fairs, other State-supported exhibitions, and breed registry exhibitions); dairy cattle; or those consigned direct to slaughter, shall be dipped for cattle scabies within 10 days prior to entry or treated in accordance with the procedures as set forth in 9 CFR 73.12 (2001+99).
- c) Each such animal shall be treated with a solution of approved acaricide and water or other method of treatment approved by the United States Department of Agriculture (9 CFR 73.10 and 73.12; 2001+99).

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 85.80 Sheep and Goats

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- a) All sheep and goats entering Illinois for breeding, exhibition or feeding purposes, except for sheep or goats consigned directly to a livestock auction market, shall be accompanied by an official health certificate showing individual approved identification and including the following statement: "The sheep or goats listed above were not exhibiting clinical signs of scrapie at the time of examination". The health certificate shall indicate the sheep or goats were examined within 30 60 days prior to entry and found free of any infectious or communicable disease and that they have not recently been exposed thereto.
- b) Any sheep or goats which show lesions of contagious ecthyma (sore mouth) or club lamb fungus disease (sheep ringworm) shall not be exhibited in the State and must be removed immediately from the exhibition area.
- c) Illinois sheep or goats changing ownership, or being moved or exhibited within the State must be accompanied by a official health certificate issued within 30 days for change of ownership or 90 days for exhibition showing individual approved identification and including the following statement: "The sheep or goats listed above were not exhibiting clinical signs of scrapie at the time of examination."
- d) Sheep or goats originating in Illinois from a flock with a laboratory diagnosis of scrapie are not permitted to exhibit, unless they have been in the Voluntary Scrapie Flock Certification Program for at least three years.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 85.115 Salmonella enteritidis serotype enteritidis

- a) The United States Department of Agriculture has declared Salmonella enteritidis serotype enteritidis as a communicable disease in poultry. The rules pertaining to Salmonella enteritidis serotype enteritidis located at 9 CFR 82.30-82.36 (2001+99) are hereby adopted for the State of Illinois. The flocks affected by these regulations are those identified in 9 CFR 82.31.
- b) All flocks found to be infected with Salmonella enteritidis serotype enteritidis shall be quarantined. The quarantine shall remain in effect until the flock has been depopulated and premises disinfected as prescribed in 9 CFR 82.32(c) or the entire flock is tested negative for Salmonella enteritidis serotype enteritidis in accordance with the provisions of 9 CFR 82.32(e).
- c) Interstate movement of poultry, eggs, equipment and manure from infected or test flocks shall be as specified in 9 CFR 82.33. Interstate movement requirements shall be the same as interstate movement requirements.
- d) If a flock is determined to be an infected flock as defined in 9 CFR

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82.32(c), the Department shall pay indemnity if State funds are available and all of the following conditions are met:

- 1) The infected flock is implicated through epidemiological evidence in a human disease outbreak;
- 2) The flock owner voluntarily agrees to depopulate with appropriate State indemnity;
- 3) The entire flock which is to be depopulated shall have originated from a flock that is classified "U.S. S. Enteritidis Monitored" for egg type birds and "U.S. S. Enteritidis Clean" for meat type birds under the National Poultry Improvement Plan and Auxiliary Provisions (9 CFR 145 and 147; 2001+999);
- 4) The flock owner must have been feeding the infected flock in accordance with the provisions of the National Poultry Improvement Plan and Auxiliary Provisions (9 CFR 145.23(d); 2001+999);
- 5) The infected flock shall be slaughtered in accordance with 9 CFR 82.33(b). Proof of kill will be reported to the Department by the meat and poultry inspector of the slaughtering establishment where the infected poultry is slaughtered;
- 6) The premises has been disinfected in accordance with 9 CFR 82.32(c); and
- 7) Replacement poultry shall be from flocks that are classified "U.S. S. Enteritidis Monitored" or "U.S. S. Enteritidis Clean" under the National Poultry Improvement Plan and Auxiliary Provisions.

e) The amount of indemnity paid, based on the availability of State funds, shall be 75 percent of the fair market value and the health thereof at the time of slaughter, minus the salvage value. The following conditions shall be considered when determining the fair market value and health of the infected flock:

- 1) Initial purchase price of each bird;
 - 2) Age of the bird and its egg production capabilities or value for producing progeny; and
 - 3) Feed and veterinary medical production costs as justified by documentation by the flock owner in the form of sales receipts and veterinary bills.
- f) The Department and the infected flock owner must agree upon the value of the poultry destroyed, and in the case as agreement cannot be made, indemnity will not be paid for the flock.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 85.120 Cervidae

a) Elk entering Illinois shall originate from a certified brucellosis-free herd or be negative to a brucellosis card test or PCFIA test conducted within 60 days on all animals 6 months of age and

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over.

b) Certified brucellosis-free cervid herds shall be established and maintained in accordance with the Brucellosis Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228; September 30, 1998 ~~1997~~-~~edition~~, as amended May 14, 1999, and not including any later amendments or editions beyond the date specified) and the United States Department of Agriculture.

c) All cervidae entering Illinois must also be in compliance with the Illinois Wildlife Code [520 ILCS 5].

d) All cervidae entering Illinois must be accompanied by a permit from the Department and Certificate of Veterinary Inspection that:

- 1) has been issued by an accredited veterinarian of the state of origin or a veterinarian in the employ of the United States Department of Agriculture;

- 2) is approved by the Animal Health Official of the state of origin;

- 3) shows that the cervidae are free from visible evidence of any contagious, infectious, or communicable disease or exposure thereto and includes the following statement: "All cervidae on this certificate have been part of the herd of origin for at least one year or were natural additions to this herd. There has been no diagnosis, clinical signs, or epidemiological evidence of CWD in this herd for the past five years." OR "All cervidae on this certificate originate from a CWD monitored or certified herd in which these animals have been kept for at least one year or were natural additions. There has been no diagnosis, clinical signs, or epidemiological evidence of CWD in this herd for the past five years.";

- 4) shows that the cervidae are not originating from a herd under quarantine for any contagious, infectious or communicable disease;

- 5) lists the cervid's unique individual identification (approved ear tag, tattoo or microchip);

- 6) shows the permit obtained from the Department:

A) Applicant for permit shall furnish the following information to the Department:

- i) Name and post office mailing address of Illinois destination;
- ii) Name and post office mailing address of consignor; and
- iii) Number of cervidae in shipment.

B) Grounds for refusal to issue permit are:

- i) Violation of the Act or this part;
 - ii) Presence of a disease that might endanger the Illinois livestock industry;
 - iii) Refusal to provide required information for the permit.
- C) Permits will be issued by telephoning or writing the Department.

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e) Chronic wasting disease (CWD).

- 1) Any cervid dying from an unknown cause and that has exhibited a neurological disorder must have its brain removed for CWD evaluation. Any cervid exhibiting symptoms of CWD must be kept separate and apart from other members of the herd and will be quarantined until the animal is either destroyed or determined not to have CWD. Animals quarantined for CWD will be subject to periodic inspection by Department personnel.
 - 2) If CWD is diagnosed in a herd, the herd will be quarantined and a herd plan developed. The quarantine will remain in effect until either the herd has been depopulated or there has been no evidence of CWD in the herd for five years from the date of the last case, and all animals that have died or have been slaughtered in the herd during that period were examined for CWD.
 - 3) If a herd received an animal from an affected herd within 36 months prior to the death of the affected animal, the trace-forward herd has two options:
 - A) The animal from the affected herd shall be removed and examined for CWD. If the animal is positive, the herd shall be placed under quarantine for at least five years, and a herd plan shall be developed. If the animal is negative, a herd plan shall be developed which includes a five year surveillance of the herd, with the mandatory reporting of the death of all animals and CWD examination.
 - B) If the trace-forward animal is not removed, the herd will be quarantined and a herd plan developed. The herd will be under quarantine for five years, unless the herd was participating in the Certified Monitored Chronic Wasting Disease program. Any surveillance done after the arrival of the trace animal will be counted as time in quarantine.
 - 4) If an animal dies of CWD within 36 months after changing herds, the herd or origin shall be considered as the trace-back herd. A herd plan will be developed, including a herd inventory with individual animal identification, verified by an accredited, state or federal veterinarian. The herd will be quarantined for five years from the last case traced back to the herd with mandatory death reporting and CWD testing of all animals.
- f) Requirements for Establishing and Maintaining Certified Monitored Chronic Wasting Disease (CWD) Herds
- 1) General requirements
 - A) Certificates for Certified Monitored CWD Herds shall be valid for one year, unless revoked due to disclosure of CWD in the herd, and shall be issued by the Department.
 - B) Certificates shall be extended for a period of one year upon compliance with recertification requirements.
 - C) All animals shall be individually identified with an approved tag, microchip or tattoo.
 - 2) To qualify or renew of herd for certification
 - a) The following definitions shall be applicable to this Section:

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- A) An annual herd inventory must be completed and verified by an accredited veterinarian, or a state or federal veterinarian or animal health investigator within 9-15 months from the anniversary date of the enrollment of the herd in the program. The inventory must include:
 - i) Unique identification, age and sex of all animals in the herd;
 - ii) Disposition of all animals not present;
 - iii) Source of purchased additions;
 - iv) Documentation of all interstate movement; and
 - v) Signature of both the owner and the person verifying the inventory.
 - B) The owner must:
 - i) Submit the brains of all animals 16 months of age or older that have died or been killed or slaughtered for CWD examination at an approved laboratory;
 - ii) Individually identify all animals with a unique identification; and
 - iii) Provide a detailed description of the physical facilities and the specific premises location of the herd either through GPS identification or through a detailed description of the location.
 - 3) Levels of certification
 - A) The Department will issue certification of herd monitoring upon completion of the annual herd inventory and review by the Department.
 - B) Herds will be certified as follows:
 - i) Level A - one year of participation;
 - ii) Level B - two to three years of participation; and
 - iii) Level C - four to five years of participation;
 - iv) Level D - six or more years of participation.
 - 4) Herd additions are allowed under the following circumstances:
 - A) Animals may enter the herd from herds of equal or higher status; and
 - B) Animals entering the herd from a herd of lower status will result in the herd's level reverting to the level of the purchased animals.

Animals entering the herd from a nonparticipating herd will result in the herd losing its herd certification. The herd will be required to start over in the certification program.
- (Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 85.135 Requirements for Establishing and Maintaining a Herd or Flock Under the Voluntary Paratuberculosis (Johnes's disease) Certification Program

a) The following definitions shall be applicable to this Section:

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- 1) "Accredited laboratory" means a laboratory operated by the Illinois Department of Agriculture, the University of Illinois College of Veterinary Medicine, or a laboratory approved by the Director (on the basis of its using USDA approved methods).
- 2) "Animal" means cattle, bison, buffalo, sheep, goats, llamas, or members of the cervid family.
- 3) "Cow-side", "pen-side" or "on-site" test means any test approved by the United States Department of Agriculture for M. avium paratuberculosis that can be performed in the field, by an accredited veterinarian. Veterinarians must receive approval from the Department to use this test, and all results must be reported to the Department within 10 days. The test cannot be performed in a herd participating in the voluntary Johne's Disease Certification Program.
- 4) "Herd or flock" means all animals under common ownership or supervision that are grouped on one or more parts of any single premises (lot, farm, ranch), or all animals on two or more premises geographically separated, but on which animals have been interchanged or where there has been contact between the premises. Contact of animals between separated premises under common management shall be assumed to have occurred unless otherwise established by the herd or flock owner or manager. Each separate species of animal shall be considered as a separate herd or flock.
- 5) "Positive animal" means an animal infected with Mycobacterium avium paratuberculosis, only if M. avium paratuberculosis is demonstrated by an organism detection test on tissues or feces of the animal.
- 6) "M. avium paratuberculosis-Detection Test" or "organism detection test" means any test sufficiently sensitive and specific for detection of M. avium paratuberculosis in fecal samples. Definitions of "sufficiently sensitive and specific" will be on the basis of results of performance of a check test and proficiency standards set by the National Paratuberculosis Certification Program. Any test approved by the U.S. Department of Agriculture for M. avium paratuberculosis organism detection (i.e., fecal culture test for M. avium paratuberculosis) is acceptable as long as it is performed at an accredited laboratory.
- 7) "Serum antibody test" means any test sufficiently sensitive and specific for detection of antibodies to M. avium paratuberculosis in bovine serum. Definition of "sufficiently sensitive and specific" will be on the basis of results of performance of a check test and proficiency standards set by the National Paratuberculosis Certification Program (October 1998), as recommended and approved by the U.S. Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228). Any test approved by the U.S. Department of Agriculture

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- for serum antibody detection (i.e., ELISA for M. avium paratuberculosis) is acceptable as long as it is performed at an accredited laboratory.
- b) Criteria for herds qualified to enter into the certification program:
 - 1) Participation in this program is voluntary and the producer/owner is responsible for the cost of testing.
 - 2) The herd has been in existence for at least one year or the herd was assembled with animals originating directly from paratuberculosis-certified herds only.
 - 3) A herd assembled with animals originating directly from certified herds only shall start at the lowest certification level of the herds from which the assembled animals were acquired. A negative first-herd test will qualify the newly-assembled herd for the first certification level.
 - 4) All animals must have an approved, permanent, unique, legible identification other than a plastic ear tag or neck chain. Acceptable means of an approved, permanent, unique, legible identification include registration or association numbers accompanied by identification document, ear tattoos, USDA uniform series ear tag (metal tags), freeze branding and electronic identification (microchips) as long as a reader is supplied by the owner or is readily available.
- c) Voluntary Johne's disease herd status for cattle shall be established and maintained in accordance with the Voluntary Johne's Disease Herd Status Program (October 1998) that was developed by the National Johne's Working Group and the Johne's Committee of the U.S. Animal Health Association and approved and adopted by the U.S. Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228). Herd owners using either the Fast Track or the Standard Track certification program must sign a herd agreement prior to acceptance into the program.
- d) Criteria for certifying bison, buffalo, sheep, goats, llamas or members of the cervid family herds or flocks under the Illinois Voluntary Johne's Disease Herd or Flock Certification Program.
 - 1) The following certification levels will be awarded compliance with certification requirements:
 - Level 1 - herd or flock tested negative after one sampling.
 - Level 2 - herd or flock tested negative after two samplings.
 - Level 3 - herd or flock tested negative after three samplings.
 - Level 4 - herd or flock tested negative after four samplings.
 - Level 5 - herd or flock tested negative after five samplings.
 - Level 5 Monitored - herd or flock tested negative after six or more samplings.
 - 2) Certification requirements:
 - A) For annual certification, all animals 24 months of age and

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- older must be tested.
- B) Certified herds or flocks must be tested every 12 months (+/- 2 months).
- C) All tests must be performed at an accredited laboratory.
- D) An organism detection test for *M. avium* paratuberculosis (i.e., fecal culture) must be conducted.
- E) Fecal collection must be done either by, or under the direct supervision of, an accredited veterinarian who must verify that the samples were collected from the animals identified on the test documents.
- F) The owner must certify on an agreement form prescribed by the Department:
- i) At the initial test date, the herd has been in existence for at least one year or was assembled only from herds or flocks enrolled in a *M. avium* paratuberculosis program and are at the same or higher level than the herd or flock. Animals purchased from herds or flocks participating in *M. avium* paratuberculosis programs outside of Illinois must have that state's program approved by the Director prior to certification.
 - ii) At each test date, all animals in the herd or flock 24 months of age or older were sampled and included in the herd or flock test. A herd or flock can qualify for certification through a split herd/flock testing program. The producer must test all test-eligible animals at least once a year throughout a one year (12 month) period. The anniversary date would be the date that the herd test is completed for the year. The testing schedule for the year must be described in the annual herd agreement.
 - iii) At each test date, a list identifying all animals previously tested but no longer in the herd or flock must be provided to the Department.
 - iv) At each test date, all animals added to the herd or flock since the last herd or flock test were natural additions to (born into) the herd or flock, purchased from participating herds or flocks, or were tested at the time of arrival on the premises (see Section 85.135(d)(6)).
 - v) At each test date, with a written statement sent to the Department certifying to the best of his/her knowledge no animal that left the herd or flock tested positive for paratuberculosis or was exhibiting clinical signs of Johne's disease.
- 3) Upon completion of the required testing and review by the Director, the Department shall issue a certificate verifying the herd's or flock's status.

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- 4) Handling of animals exhibiting clinical signs:
- A) All animals exhibiting clinical signs of *M. avium* paratuberculosis must be tested and isolated from the herd or flock pending the test results. An organism detection test (i.e., fecal culture) must be used on feces from animals exhibiting clinical signs.
 - B) A negative result on the *M. avium* paratuberculosis detection test will allow the herd or flock to move to the next certification level.
- 5) Suspension or revocation of herd or flock certification:
- A) Identification of a positive animal using the organism detection test during the certification herd or flock test will result in the loss of certification status. The next negative test will qualify the herd or flock for Level 1 certification.
- If a positive animal is detected on any other test for Johne's disease during the current certification period other than by an organism detection test, the herd's or flock's certification will be suspended pending a confirmatory organism detection test of that animal.
- B) Herds or flocks not tested within 14 months after the last sampling will lose their certification status. The next negative herd or flock test will qualify the herd or flock for Level 1 certification.
- 6) Herd or Flock Additions. Animals purchased from another herd or flock participating in a *M. avium* paratuberculosis certification program may enter the herd or flock without further testing, and will be tested along with the herd or flock at the next annual test. Animals originating from herds or flocks that are not participating in an *M. avium* paratuberculosis certification program must be isolated from the other members of the herd or flock until a negative organism detection test has been received. Isolation means that the animal can have no opportunity to share feed or water receptacles with other members of the herd or flock, and there can be no chance of fecal contamination from the animal.
- 7) Protocol if an animal sold from a certified herd or flock is identified as positive:
- A) If an animal sold from a certified negative herd or flock is identified as positive by an organism detection test within 16 months after the date of sale, the selling certified herd or flock may, within 120 days of being notified, be required to conduct a herd or flock retest of all eligible animals. Determination of retesting of the herd or flock will be made by the Director based upon, but not limited to, the level of certification of the herd or flock, the last negative organism detection test of the herd or flock and the status of the other animals in the purchasing herd or flock, if

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known.

- B) The selling certified herd or flock will maintain its present certification status pending the results of the herd or flock test or at the determination of the Director based on epidemiological evidence provided by a state or federal veterinarian.
- C) If the herd or flock retest is negative, the herd will maintain its "present" certification status. The herd or flock owner/manager shall then have the option of maintaining his/her present test schedule or rescheduling his/her herd test date so that his/her next herd or flock test is not due until 12 months after the retest.
- D) If a positive animal is identified on this retest, the selling herd or flock will lose its certification status. The next negative herd or flock test will qualify the herd or flock for Level 1 certification.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 85.140 Requirements for Establishing and Maintaining a Herd Under the Voluntary Paratuberculosis (Johne's Disease) Risk Management Program

- a) The following definitions shall be applicable to this Section:

"Accredited laboratory" means a laboratory operated by the Illinois Department of Agriculture or the University of Illinois College of Veterinary Medicine, or a laboratory approved by the Director (on the basis that it is using USDA approved methods).

"Animal" means cattle, bison or buffalo.

"Herd" shall mean all animals under common ownership or supervision that are grouped on one or more parts of any single premises (lot, farm, ranch), or all animals on two or more premises geographically separated, but on which animals have been interchanged or where there has been contact between the premises. Contact of animals between separated premises under common management shall be assumed to have occurred unless otherwise established by the herd owner or manager. Each separate species of animal shall be considered as a separate herd.

"M. avium paratuberculosis-detection test" or "organism detection test" means any test sufficiently sensitive and specific for detection of M. avium paratuberculosis in fecal samples. Definition of "sufficiently sensitive and specific" will be on the basis of results of performance of a check test and

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proficiency standards set by the National Paratuberculosis Certification Program. Any test approved by the United States Department of Agriculture for M. avium paratuberculosis organism detection (i.e., fecal culture test for M. avium paratuberculosis) is acceptable as long as it is performed at an accredited laboratory.

"Serum antibody test" means any test sufficiently sensitive and specific for detection of antibodies to M. avium paratuberculosis in bovine serum. Definition of "sufficiently sensitive and specific" will be on the basis of results of performance of a check test and proficiency standards set by the National Paratuberculosis Certification Program (October 1998), as recommended and approved by the U.S. Animal Health Association (P. O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228). Any test approved by the United States Department of Agriculture for serum antibody detection (i.e., ELISA for M. avium paratuberculosis) is acceptable as long as it is performed at an accredited laboratory.

- b) Criteria for herds qualified to enter into the risk management program:

- 1) Participation in this program is voluntary and the producer/owner is responsible for the cost of testing.
- 2) The herd has been in existence for at least one year or the herd was assembled with animals originating directly from paratuberculosis-certified or risk managed herds only.
- 3) A herd assembled with animals originating directly from risk managed herds only shall start at the lowest certification level of the herds from which the assembled animals were acquired.
- 4) All animals must have an approved, permanent, unique, legible identification other than a plastic ear tag or neck chain. Acceptable means of an approved, permanent, unique, legible identification, including registration or association numbers accompanied by identification document, ear tattoos, USDA uniform series ear tag (metal tags), freeze branding and electronic identification (microchips) as long as a reader is supplied by the owner or is readily available.
- c) Criteria for enrolling cattle, buffalo or bison herds under the Illinois Voluntary Johne's Disease Risk Management Program:
 - 1) The following certification levels will be awarded compliance with certification requirements:
 - A) Level A 30 head or the whole herd has been tested with no positives disclosed.
 - B) Level B the whole herd has been tested with less than 5% (0% to 4.99%) of the animals testing positive.
 - C) Level C the whole herd has been tested with 5% to 14.99% of the animals testing positive.

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- D) Level D the whole herd has been tested with 15% or greater of the animals testing positive, or 30 head were tested with one or more positive animals disclosed.
- E) Potential Maximum Risk herds have had no animals tested or do not disclose any test results.
- F) A level achievement year representing when the herd reached the status level will be added to the status designation (e.g., Level A since 1999).

2) Certification requirements:

- A) Testing shall be done annually within 10-14 months after the initial status testing anniversary date and a herd shall remain at that level for a year, regardless of the amount of testing completed during that time. A herd can qualify through a split herd testing program. The producer must test all test-eligible animals at least once a year throughout a one year (12 month) period. The anniversary date would be the date that the herd test is completed for the year. The testing schedule for the year must be described in the annual herd agreement.

- B) Either a fecal culture or ELISA test may be used for certification.

- C) Whole herd tests are conducted on all second and higher lactation animals and bulls two years of age and older.

- D) Tests on 30 animals must be a random sampling of second and higher lactation animals and bulls two years of age and older. The same animals should not be tested in consecutive testing years.

- E) All tests must be performed at an accredited laboratory.

- F) Fecal and blood collection must be done either by, or under the direct supervision of, an accredited veterinarian, who must verify that the samples were collected from the animals identified on the test documents.

- 3) Upon completion of the required testing and review by the Director, the Department shall issue a certificate verifying the herd's status.

- 4) Herds not tested within 14 months after the last sampling will lose their certification status.

- d) Additions to the herd. Animals purchased from another herd participating in an M. avium paratuberculosis certification program may enter the herd without further testing, and will be tested along with the herd at the next annual test. Animals originating from herds that are participating in Johnne's disease risk management program and are of the same level as the purchasing herd can be added to the herd without further testing and be tested on the next annual test. If the purchased additions originate from herds that are of a lower risk management level or are from a herd that has not been tested, the purchasing herd will assume the level of the purchased additions or will lose its herd status unless the animals have had a negative test

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within 30 days prior to purchase, or are isolated from the other members of the herd until a negative test has been received. Isolation means that the animal can have no opportunity to share feed or water receptacles with other members of the herd, and there can be no chance of fecal contamination from the animal.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 85.145 Johnne's Disease Positive Cattle or Bison

Any cattle or bison found to be positive for Johnne's disease on an organism detection (culture) test shall be "J" punched in the left ear within 30 days after diagnosis. The "J" punch shall be no smaller than one inch in height. The herd will be placed under restriction until the herd has either enrolled in the Voluntary Johnne's Disease Herd Program or Johnne's Disease Risk Management Program. Herds restricted due to Johnne's disease cannot sell any animals except to slaughter that are two years of age or older, unless the animals have been tested negative for Johnne's disease within 30 days after sale or the herd is enrolled in the Johnne's Disease Risk Management Program.

(Source: Added at 25 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Livestock Auction Markets
- 2) Code Citation: 8 Ill. Adm. Code 40
- 3) Section Number: Proposed Action:
40.120 Amend
40.170 Amend
40.190 Amend
40.250 Add
- 4) Statutory Authority: Livestock Auction Market Law [225 ILCS 640]
- 5) A Complete Description of the Subjects and Issues Involved: Goats are being included under the Livestock Auction Market Law. References to the Code of Federal Regulations (CFR) will be updated. Animals consigned to slaughter will be "C" punched and placed in the slaughter-only pen. The person consigning the animals will be required to sign a statement that the animals are for slaughter only, and these statements must be forwarded to the Department on a weekly basis.
- 6) Will these proposed amendments replace emergency amendments in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Rule does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on Thursday, October 25, 2001 at 10:00 a.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield IL 62794-9281
Telephone: 217/785-5713
Facsimile: 217/785-4505

In order for mailed comments to be available for consideration at the

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public hearing, please mail no later than October 22, 2001. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Livestock auction markets; sheep and goat producers; livestock dealers.
- B) Reporting, bookkeeping or other procedures required for compliance: Records must be submitted to the Department on a weekly basis.
- C) Types of professional skills necessary for compliance: No additional professional skills are necessary.

13) Regulatory agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 40
LIVESTOCK AUCTION MARKETS

Section	
40.5	Definitions
40.10	Fee to Accompany Application Not To Be Refunded
40.20	Release of Livestock for Interstate Shipment
40.30	Veterinary Inspection
40.40	Veterinary Office
40.50	Detection of Diseased Animals
40.60	Bovine Brucellosis
40.70	Quarantine Pen
40.80	The Sale of Livestock for Immediate Slaughter
40.90	Test Chute
40.100	Brucellosis Test
40.110	Sale of Official Brucellosis Calfhooed Vaccinates
40.120	Feeder Cattle Subject to Quarantine
40.130	Backtagging
40.140	Yarding and Housing
40.150	Display License (Repealed)
40.160	Sale Day
40.170	Swine
40.180	Swine Which React to Test for Brucellosis
40.190	Sheep and Goats
40.200	Surety Bonds and Other Pledged Security
40.210	Cancellation of Escrow Agreements (Personal Bonds) (Repealed)
40.220	Swine Movement Limitations (Repealed)
40.230	Disposition of Rejected Feeding or Breeding Swine
40.240	Director To Be Named Trustee (Repealed)
40.250	Animals Designated for Slaughter Only

AUTHORITY: Implementing and authorized by the Livestock Auction Market Law [225 ILCS 640] and Section 40.23 of the Civil Administrative Code of Illinois [20 ILCS 205/40.23].

SOURCE: Regulations Relating to Livestock Auction Markets, filed January 17, 1972, effective January 27, 1972; filed May 3, 1972, effective May 13, 1972; filed December 14, 1973, effective December 24, 1973; filed March 2, 1976, effective March 12, 1976; amended at 2 Ill. Reg. 24, p. 73, effective June 15, 1978; codified at 5 Ill. Reg. 10442; amended at 8 Ill. Reg. 5956, effective April 23, 1984; amended at 10 Ill. Reg. 9754, effective May 21, 1986; amended at 12 Ill. Reg. 3411, effective January 22, 1988; amended at 14 Ill. Reg. 1943, effective January 19, 1990; amended at 16 Ill. Reg. 11793, effective July 8,

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1992; amended at 18 Ill. Reg. 1869, effective January 24, 1994; amended at 20 Ill. Reg. 1546, effective January 12, 1996; amended at 20 Ill. Reg. 16192, effective January 1, 1997; amended at 21 Ill. Reg. 17085, effective January 1, 1998; amended at 23 Ill. Reg. 441, effective January 1, 1999; amended at 23 Ill. Reg. 9780, effective August 9, 1999; amended at 25 Ill. Reg. _____, effective _____.

Section 40.120 Feeder Cattle Subject to Quarantine

All female cattle of beef breeds over 6 and under 18 months of age from states that are not brucellosis Class Free under the Brucellosis Eradication Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228, February 1, 1998) and the United States Department of Agriculture and/or 9 CFR 78.1 (2001-1999) sold or released from a livestock auction market for feeding or grazing purposes are subject to quarantine (8 Ill. Adm. Code 75.130) and shall be reported on Form M-107 Revised to the Department following each sale or at the end of each week.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 40.170 Swine

- In no case shall swine remain on the livestock auction market premises for more than 10 days.
- Out-of-state feeder swine shall enter Illinois accompanied by a health certificate and a permit (8 Ill. Adm. Code 105.10) and be ear tagged to show state of origin, except that feeder swine consigned from the farm of origin directly to a federally approved market shall be tagged immediately upon arrival at the market. Such swine shall move directly into Illinois from the state of origin. A report of sale shall be made within 48 hours after the time of sale (on Form 2-5) to the Department, stating name and address of purchaser and number of animals purchased. Such swine shall be quarantined to the purchaser for 21 days by the Department (8 Ill. Adm. Code 105.20).
- Ear tag identification of swine, together with the name and address of consignor and purchaser, date of sale, breed and number purchased, shall be made a part of the records of the livestock auction market before swine leave the livestock auction market.
- In accordance with Section 2 of the Illinois Swine Brucellosis Eradication Act [225 ILCS 95/2], all breeding swine 4 months of age and over shall be negative to an official test for brucellosis within 60 days prior to sale or originate from a validated brucellosis-free herd. Such test shall be recognized for one change of ownership or premises only within the 60-day period.
- In accordance with Section 115.70 of the regulations pertaining to the Illinois Pseudorabies Control Act (8 Ill. Adm. Code 115.70), all

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be tagged with the "slaughter only" red ear tag and be accompanied directly to slaughter by Form C-24a, revised.
(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 40.250 Animals Designated for Slaughter Only

When an animal is presented at an auction market by the owner and is designated as being sold for slaughter only, the animal shall be "C" punched in the right ear. The "C" punch must be a minimum of one inch tall. The animal shall be placed in the slaughter pen and cannot be sold, other than for slaughter. The consignor shall sign a form stating that the animal cannot be sold for any reason other than for slaughter and that the animal must be "C" punched prior to sale. These forms must be sent to the Department on a weekly basis, together with the name and address of the purchaser of the animal.

(Source: Added at 25 Ill. Reg. _____, effective _____)

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Illinois origin breeding swine must be accompanied by a health certificate or an official pseudorabies test chart or photocopy of such chart showing that the swine have tested negative to an official test for pseudorabies within 60 days prior to the date of such transaction with the test being recognized for one change of ownership or premises within the 60-day period, or showing that the swine originated from a qualified pseudorabies negative herd, or showing that the swine are unvaccinated swine originating from an Illinois pseudorabies negative gene-altered vaccinated herd.

f) In accordance with Section 105.30 of the regulations pertaining to the Swine Disease Control and Eradication Act (8 Ill. Adm. Code 105.30), the official health certificate shall show that any breeding swine entering Illinois must be negative to an official test for pseudorabies conducted by an approved laboratory within 30 days prior to entry, or that the swine originated from a qualified pseudorabies negative herd with the qualified herd number and qualification date listed on the health certificate, or that the swine originated from a country that meets the requirements for Stage V, or from a state that has been classified as Stage IV or Stage V under the Pseudorabies Eradication State-Federal-Industry Program Standards (January 2000+999) as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228). (This incorporation by reference does not include any amendments or editions beyond the date specified.) If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 40.190 Sheep and Goats

- a) Livestock auction market veterinarians are required to check each consignment of sheep and goats at time of presentation at the sale to determine that to the best of their knowledge and belief the sheep and goats are free from infectious and communicable diseases.
- b) When diseased sheep or goats, except those exhibiting evidence of contagious foot rot, are found at a livestock auction market, the livestock auction market veterinarian shall immediately place the diseased sheep or goats under quarantine and order the owner to return such sheep or goats to his premises under quarantine. The livestock auction market veterinarian shall notify the Department of such quarantine. The quarantine will remain in effect until the Department receives notice of the death of the sheep or goats, OR receives a report from a licensed veterinarian that the animal or animals have recovered and are in a healthy condition.
- c) When sheep exhibit evidence of contagious foot rot, such sheep shall

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- 1) Heading of the Part: Livestock Dealer Licensing
- 2) Code Citation: 68 Ill. Adm. Code 610
- 3) Section Number: Proposed Action:
610.40 Amend
610.50 Amend
610.60 Amend
- 4) Statutory Authority: Illinois Livestock Dealer Licensing Act [225 ILCS 645]
- 5) A Complete Description of the Subjects and Issues Involved: Goats will be added to Sections 610.40 and 610.60. Records regarding the purchase of sheep and goats will be required to be mailed to the Department on a weekly basis. This requirement is in response to the need to be able to trace sheep and goats to the flock of origin due to the incidence of scrapie. In addition, the Department is updating references to the Code of Federal Regulations (CFR).
- 6) Will these proposed amendments replace emergency amendments in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Rule does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on Thursday, October 25, 2001 at 10:00 a.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield IL 62794-9281
Telephone: 217/785-5713
Facsimile: 217/785-4505

In order for mailed comments to be available for consideration at the

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public hearing, please mail no later than October 22, 2001. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Livestock dealers.
- B) Reporting, bookkeeping or other procedures required for compliance: Livestock dealers will be required to submit records regarding purchases of sheep and goats to the Department on a weekly basis.
- C) Types of professional skills necessary for compliance: No additional professional skills are needed.

13) Regulatory agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS
TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER II: DEPARTMENT OF AGRICULTURE
PART 610
LIVESTOCK DEALER LICENSING

Section	
610.5	Definitions
610.10	Entry Requirements
610.20	Breeding Cattle Health Requirements (Repealed)
610.30	Swine Health Requirements
610.40	Prevention of Spread of Livestock Diseases
610.50	Feeder Cattle
610.60	Slaughter Animals
610.70	Care of Livestock (Repealed)
610.80	Inspection
610.90	Identification Not to be Removed or Altered
610.100	Compliance with Market Cattle Identification Program
610.110	Surety Bonds and Other Pledged Security
610.120	Cancellation of Escrow Agreements (Personal Bonds) (Repealed)
610.130	Director as Trustee on Surety Bonds (Repealed)
610.140	Dealer's Agent (Repealed)
610.150	License Application
AUTHORITY: Implementing and authorized by the Illinois Livestock Dealer Licensing Act [225 ILCS 645].	

SOURCE: Rules and Regulations Relating to the Livestock Dealer Licensing Act, filed January 17, 1972, effective January 27, 1972; amended May 3, 1972, effective May 13, 1972; June 20, 1973, effective July 1, 1973; April 5, 1976, effective April 15, 1976; amended at 2 Ill. Reg. 34, p. 166, effective August 24, 1978; codified at 5 Ill. Reg. 10573; amended at 8 Ill. Reg. 5973, effective April 23, 1984; amended at 13 Ill. Reg. 3690, effective March 13, 1989; amended at 18 Ill. Reg. 1875, effective January 24, 1994; amended at 20 Ill. Reg. 1552, effective January 12, 1996; amended at 20 Ill. Reg. 16197, effective January 1, 1997; amended at 21 Ill. Reg. 17091, effective January 1, 1998; amended at 23 Ill. Reg. 446, effective January 1, 1999; amended at 23 Ill. Reg. 9785, effective August 9, 1999; amended at 25 Ill. Reg. _____, effective _____.

Section 610.40 Prevention of Spread of Livestock Diseases

All other species of breeding livestock, to wit: cattle, goats and sheep, shall comply with the laws and rules as listed in Section 19.1 of the Illinois Livestock Dealer Licensing Act [225 ILCS 645/19.1] relating to such livestock.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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Section 610.50 Feeder Cattle

Livestock dealers purchasing animals for feeding purposes shall:

- Keep such cattle separate from breeding cattle.
- Submit to the Department a weekly report (On Department Form M-107) of the sale of all out-of-state female feeder cattle over 6 and under 18 months of age from states that are not brucellosis Class-Free under the Brucellosis Eradication Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228, February 1, 1998) and the United States Department of Agriculture and/or 9 CFR 78.1 (2001-1999), giving the date of each sale, number sold, age, breed, and the name and address of the purchaser.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 610.60 Slaughter Animals

Livestock dealers purchasing animals for slaughter purposes only (cattle, swine, goats or sheep) shall:

- Keep slaughter animals isolated from all breeding and feeder animals.
- Be sold within 10 days after of purchase direct to a public stockyard or recognized slaughter establishment under State or Federal supervision. Slaughter cattle from farm of origin may be consigned direct to a recognized slaughter establishment, or public stockyard, or licensed livestock auction market under State or Federal supervision (except the type of cattle mentioned in subsection (c) below).
- Maintain records on each head of livestock purchased in accordance with Section 17 of the Illinois Livestock Dealer Licensing Act [225 ILCS 645/17]. Livestock purchased at less than prevailing market price, such as cows with squamous cell carcinoma (cancer eye), crippled animals, and animals whose general physical appearance would indicate they are not healthy or are suffering from malnutrition shall be consigned directly to a recognized slaughtering establishment under State or Federal supervision.
- Diseased livestock accompanied by official forms ~~form(s)~~ shall not be diverted en route. Licensed livestock dealers shall have all official forms accompany the diseased livestock to the destination listed on the forms.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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1) Heading of Part: Illinois Pseudorabies Control Act

2) Code Citation: 8 Ill. Adm. Code 115

3) Section Number: Proposed Action:

115.10	Amend
115.15	Amend
115.80	Amend
115.100	Amend

4) Statutory Authority: Illinois Pseudorabies Control Act [510 ILCS 90]

5) A Complete Description of the Subjects and Issues Involved: The Department is changing the testing requirement for feeder swine entering Illinois from Stage III states or areas to require a monitoring test within the past 30 days. The Department is also updating references to the Code of Federal Regulations (CFR).

6) Will these proposed amendments replace an emergency amendment in effect?
No

7) Do these amendments contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on Thursday, October 25, 2001 at 10:00 a.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield IL 62794-9281
Telephone: 217/785-5713
Facsimile: 217/785-4505

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 22, 2001. All comments

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received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: No additional professional skills are needed.

13) Regulatory agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

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TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 115
ILLINOIS PSEUDORABIES CONTROL ACT

Section	Definitions
115.10	Incorporation by Reference
115.15	Pseudorabies Quarantines
115.20	General Requirements for Qualified Pseudorabies Negative, Negative
115.30	Gene-Altered Vaccinated and Feeder Swine Pseudorabies Monitored Herds
115.40	Requirements for Establishing and Maintaining Qualified Pseudorabies
115.50	Negative Herds
115.60	Requirements for Establishing and Maintaining Pseudorabies
115.70	Qualified-Negative Gene-Altered Vaccinated (QNV) Swine Herds
115.80	Requirements for Establishing and Maintaining Feeder Swine
115.90	Pseudorabies Monitored Herds (Repealed)
115.100	Pseudorabies Test Requirements for Intrastate Movement
115.110	Feeder Swine
115.120	Breeding Animals Consigned to Slaughter
	Swine Intended for Slaughter; Permit
	Use of Vaccine

AUTHORITY: Implementing and authorized by the Illinois Pseudorabies Control Act [510 ILCS 90].

SOURCE: Adopted at 12 Ill. Reg. 3394, effective January 22, 1988; amended at 13 Ill. Reg. 3685, effective March 13, 1989; amended at 14 Ill. Reg. 1935, effective January 19, 1990; amended at 14 Ill. Reg. 5065, effective March 21, 1990; amended at 14 Ill. Reg. 15318, effective September 10, 1990; amended at 16 Ill. Reg. 11781, effective July 8, 1992; emergency amendment at 17 Ill. Reg. 5906, effective March 17, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 14006, effective August 16, 1993; amended at 20 Ill. Reg. 1542, effective January 12, 1996; amended at 21 Ill. Reg. 904, effective January 7, 1997; amended at 21 Ill. Reg. 17079, effective January 1, 1998; amended at 23 Ill. Reg. 434, effective January 1, 1999; amended at 24 Ill. Reg. 1012, effective January 10, 2000; emergency amendment at 24 Ill. Reg. 8620, effective June 15, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 16630, effective November 1, 2000; amended at 25 Ill. Reg. _____, effective _____.

Section 115.10 Definitions

The definitions for this Part shall be as set forth in the general definitions

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Section (8 Ill. Adm. Code 20.1). Also, the following definitions shall apply to this Part:

"Act" means the Illinois Pseudorabies Control Act [510 ILCS 90].

"Official random-sample test (95/5)" means a sampling procedure utilizing official pseudorabies serologic tests that provide a 95 percent probability of detecting infection in a herd in which at least 5 percent of the swine are seropositive for pseudorabies. Each separated group of swine on an individual premises must be considered a separate herd and sampled as follows:

- Less than 100 head - test 45
- 100-200 head - test 51
- 201-999 head - test 57
- 1000 and over - test 59

"Official random-sample test (95/10)" means a sampling procedure utilizing official pseudorabies serologic tests that provide a 95 percent probability of detecting infection in a herd in which at least 10 percent of the swine are seropositive for pseudorabies. Each segregated group of swine on an individual premises must be considered a separate herd and sampled as follows:

- Less than 100 head - test 25
- 100-200 head - test 27
- 201-999 head - test 28
- 1000 and over - test 29

"Official test" or "test" means any serologic test for the detection of pseudorabies (serum neutralization (SN), for example) as approved by the United States Department of Agriculture (9 CFR 85.1, 2001 1998) and conducted in an approved laboratory.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 115.15 Incorporation by Reference

The Pseudorabies Eradication State-Federal-Industry Program Standards (Jan. 2001 1999), as approved by the United States Animal Health Association (P.O. Box 28176, Suite 205, 6924 Lakeside Avenue, Richmond, Virginia 23228-0176) is incorporated by reference in this Part and does not include any later amendments or editions beyond the date specified.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

DEPARTMENT OF AGRICULTURE
NOTICE OF PROPOSED AMENDMENTS

1) Heading of Part: Swine Disease Control and Eradication Act

2) Code Citation: 8 Ill. Adm. Code 105

3) Section Number: Proposed Action:
105.10 Amend
105.30 Amend

4) Statutory Authority: Illinois Swine Disease Control and Eradication Act [510 ILCS 101], Illinois Pseudorabies Control Act [510 ILCS 90] and Illinois Swine Brucellosis Eradication Act [510 ILCS 95]

5) A Complete Description of the Subjects and Issues Involved: The Department will only recognize the status of Qualified Pseudorabies Negative and Controlled Vaccinated Herds from Stage III states if the herd is conducting monthly testing.

6) Will these proposed amendments replace an emergency amendments in effect?
No

7) Do these rulemaking contain an automatic repeal date? No

8) Do these proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on Thursday, October 25, 2001 at 10:00 a.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield IL 62794-9281
217/785-5713
Facsimile: 217/785-4505

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 22, 2001. All comments received will be fully considered by the agency and the Advisory Board of

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Section 115.80 Pseudorabies Testing of Feeder Swine

Swine for feeding purposes shall, in addition to complying with the other requirements of this Part and 8 Ill. Adm. Code 105.10, enter or move within Illinois without further testing requirements for pseudorabies if:

a) originating from a Stage I or Stage II state, the swine are from a qualified pseudorabies negative herd; or a QNV herd, where the last monitoring test has been conducted within 15 days, from Stage I and II states; or a herd where a 95/10 test of the breeding herd, or, if the breeding herd is not on the same premises, of the feeder swine on the premises, was conducted within 15 days prior to shipment into Illinois or 30 days for movement within Illinois; or

b) originating from a Stage III state, the swine are from a qualified pseudorabies negative or a QNV herd, or form a herd where a 95/10 test of the breeding herd, or of the feeder swine if the breeding swine are not on the same premises as the feeder swine, within 30 days prior to shipment into Illinois; or

c) originating from a Stage IV or V state, or a county that meets the requirements for Stage V. If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state.

b) The swine originate from a state that has been classified as Stage IV or V under the Pseudorabies Eradication State-Federal-Industry-Program Standards--or originate from a country that meets the requirements for Stage V--if there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 115.100 Breeding Animals Consigned to Slaughter

Before being mixed with swine from any other source, all breeding animals consigned to slaughter or offered for sale for slaughter shall be identified to the herd of origin by an approved identification tag in accordance with the Swine Identification Program (9 CFR 78.33, 2001 2000). The tag shall be applied to the back of the neck of each animal. A report of such identification shall be made on forms provided by the United States Department of Agriculture and shall be submitted to the Department within 30 days after of application. If such swine are slaughtered in Illinois, the management of the Illinois slaughter facility shall, upon written request from the Department or from the U.S. Department of Agriculture, provide for or permit the collection of blood samples for testing from the identified swine.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Swine producers.

B) Reporting, bookkeeping or other procedures required for compliance: Additional testing may be required for producers exporting swine into Illinois from Stage I, II or III states.

C) Types of professional skills necessary for compliance: No additional professional skills are needed.

13) Regulatory agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

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TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 105

SWINE DISEASE CONTROL AND ERADICATION ACT

Section	
105.5	Definitions
105.7	Incorporation by Reference
105.10	Swine Entering Illinois for Feeding Purposes Only
105.20	Quarantine of Imported Feeder Swine
105.30	Swine Entering Illinois for Breeding Purposes
105.40	Pseudorabies (Aujeszky's Disease) in Swine (Repealed)
105.41	General Requirements for Qualified Pseudorabies Negative, Controlled Vaccinated and Feeder Swine Pseudorabies Monitored Herds (Repealed)
105.42	Requirements for Establishing and Maintaining Qualified Pseudorabies Negative Herds (Repealed)
105.44	Requirements for Establishing and Maintaining Pseudorabies Controlled Vaccinated Swine Herds (Repealed)
105.46	Requirements for Establishing and Maintaining Feeder Swine Pseudorabies Monitored Herds (Repealed)
105.50	Official Pseudorabies Test (Repealed)
105.60	Pseudorabies Test Requirements for Intrastate Movement (Repealed)
105.70	Pseudorabies Testing of Feeder Swine (Repealed)
105.80	Feeder Swine (Repealed)
105.90	Feral Swine
105.100	Feeder Swine Moving Through Pig Shows/Sales
105.110	Swine Entering Illinois for Exhibition Purposes Other Than Through Show/Pig Sales
105.120	Illinois Exhibition Swine
105.130	Requirements for Establishing and Maintaining a Herd Under the Voluntary Porcine Reproductive and Respiratory Disease (PRRS) Monitored Herd Program

AUTHORITY: Implementing and authorized by the Illinois Swine Disease Control and Eradication Act [510 ILCS 100], the Illinois Pseudorabies Control Act [510 ILCS 90], and the Illinois Swine Brucellosis Eradication Act [510 ILCS 95].

SOURCE: Rules and Regulations Relating to the Illinois Swine Disease Control and Eradication Act, filed February 24, 1975, effective March 6, 1975; 2 Ill. Reg. 24, p. 31, effective June 15, 1978; 2 Ill. Reg. 46, p. 10, effective November 11, 1978; 3 Ill. Reg. 33, p. 341, effective January 1, 1980; 5 Ill. Reg. 3, p. 745, effective January 2, 1981; 5 Ill. Reg. 45, p. 12100, effective October 27, 1981; codified at 5 Ill. Reg. 10461; amended at 5 Ill. Reg. 13619, effective December 4, 1981; amended at 8 Ill. Reg. 5998, effective April 23, 1984; amended at 9 Ill. Reg. 2236, effective February 15, 1985; amended at 9

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Ill. Reg. 18435, effective November 19, 1985; amended at 10 Ill. Reg. 9758, effective May 21, 1986; amended at 11 Ill. Reg. 10187, effective May 15, 1987; amended at 11 Ill. Reg. 10538, effective May 21, 1987; amended at 12 Ill. Reg. 3440, effective January 22, 1988; amended at 13 Ill. Reg. 3715, effective March 13, 1989; amended at 14 Ill. Reg. 1961, effective January 19, 1990; amended at 14 Ill. Reg. 15322, effective September 10, 1990; amended at 16 Ill. Reg. 11799, effective July 8, 1992; emergency amendment at 17 Ill. Reg. 5910, effective March 17, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 14010, effective August 16, 1993; amended at 18 Ill. Reg. 1880, effective January 24, 1994; amended at 18 Ill. Reg. 17968, effective January 1, 1995; amended at 20 Ill. Reg. 1563, effective January 12, 1996; amended at 21 Ill. Reg. 917, effective January 7, 1997; amended at 21 Ill. Reg. 17094, effective January 1, 1998; amended at 23 Ill. Reg. 459, effective January 1, 1999; amended at 24 Ill. Reg. 1017, effective January 10, 2000; emergency amendment at 24 Ill. Reg. 8625, effective June 15, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 16635, effective November 1, 2000; amended at 25 Ill. Reg. _____, effective _____.

Section 105.10 Swine Entering Illinois for Feeding Purposes Only

- a) Feeder swine, except feral swine, may enter Illinois provided they are identified by an ear tag or site tattoo in the right ear showing state of origin and accompanied by a permit from the Department and an official health certificate.
- b) Official health certificate shall:
 - 1) Be issued by an accredited veterinarian of the state of origin or a veterinarian in the employ of the United States Department of Agriculture;
 - 2) Be approved by the Animal Health Official of state of origin;
 - 3) Show that the feeder swine are free from visible evidence of any contagious, infectious, or communicable disease or exposure thereto;
 - 4) Show that the feeder swine are not from a quarantined herd and/or area;
 - 5) List number and description of the feeder swine, site tattoos, ear tag series or location of ear tag records when pigs originate from cooperative feeder pig sales; and
 - 6) Show that the swine originate originated from a herd in which a representative sample of the herd has been tested and found negative for pseudorabies (8 Ill. Adm. Code 115.80), originate from a qualified pseudorabies negative or pseudorabies negative gene-altered vaccinated herd that is conducting monthly monitoring tests or originate from a state that has been classified as Stage IV or V under the Pseudorabies Eradication State-Federal-Industry Program Standards. If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state.

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- c) Permits:
 - 1) Permits to import feeder swine shall only be issued to:
 - A) An Illinois licensed feeder swine dealer; and
 - B) A person importing pigs to feed on his own premises and not for resale other than to slaughter.
 - 2) Applicant for permit shall furnish the following information to the Department:
 - A) Name and complete mailing address of Illinois destination.
 - B) Name and address of consignor.
 - C) Number of swine in shipment.
 - D) Pseudorabies vaccination status of swine.
 - 3) Grounds for refusal to issue a permit are:
 - A) Violation of the Act or any rule of this Part.
 - B) If a person should be licensed under the Illinois Feeder Swine Dealer Licensing Act [225 ILCS 620] and his or her license is not in good standing with the Department.
 - C) Presence of a disease which might endanger the Illinois swine industry.
- d) Imported isowean or feeder swine from Stage I or II states shall be quarantined to the Illinois premises until a 95/10 random sample test has been performed on the imported animals 21 to 60 days post-importation.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 105.30 Swine Entering Illinois for Breeding Purposes

- a) Swine for breeding purposes, or of breeding age returning to Illinois after exhibition, except feral swine, may enter Illinois provided they are accompanied by a permit from the Department and an official health certificate.
- b) Official health certificate shall:
 - 1) Be issued by an accredited veterinarian of the state of origin or by a veterinarian in the employ of the United States Department of Agriculture;
 - 2) Be approved by the Animal Health Official of the state of origin;
 - 3) Identify each animal by registration number, approved ear tag, breed registry tattoo, or ear notch approved by the respective breed registry;
 - 4) Show the swine are free from visible evidence of contagious, infectious, or communicable diseases;
 - 5) Show that the swine are not from a quarantined herd and/or area;
 - 6) Show any swine more than 4 months of age to be negative to an official test for brucellosis, conducted by an approved laboratory within 30 days prior to entry, OR that the swine originate from a validated brucellosis-free herd, with validated herd number and validation date listed on the health certificate,

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OR that the swine originate from a validated brucellosis-free state (Swine Brucellosis Eradication Uniform Methods and Rules; and

- 7) Show any swine to be negative to an official test for pseudorabies conducted by an approved laboratory within 15 days prior to entry OR that the swine originated from a qualified pseudorabies negative herd where at least half of the last monitoring test has been conducted within 15 days (testing half of the required monthly number of swine every 15 days is acceptable - Stage I or II states only; monthly ~~or quarterly~~ testing is acceptable in Stage III states), with the qualified herd number and qualification date listed on the health certificate, pseudorabies vaccination status of swine, OR that the swine originated from a country that meets the requirements for Stage V or from a state that has been classified as Stage IV or Stage V under the Pseudorabies Eradication State-Federal-Industry Program Standards. If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state if the state is split with a classification of Stage III and below. Split state status will be recognized for split III/IV and above.

c) Permits:

- 1) Permits to import breeding swine shall be issued by telephoning or writing the Department.
- 2) Applicant for permit shall furnish the following information to the Department:
Name and complete mailing address of Illinois destination;
Name and address of consignor;
Number of swine in shipment; and
Pseudorabies vaccination status of swine.
- 3) Grounds for refusal to issue a permit are:
 - A) Violation of the Act or any rule of this Part; and
 - B) Presence of a disease which might endanger the Illinois swine industry.

- d) Imported breeding animals or swine of breeding age returning to Illinois after exhibition shall be kept quarantined and isolated until a percentage of the imported breeding swine are retested and negative to an official test for pseudorabies conducted not less than 21 days nor more than 60 days after entering Illinois. If the number of imported breeding animals is 35 or less, all or at least 10 animals, whichever is less, are to be tested. If more than 36 imported breeding animals are involved, a minimum of 30 percent or 30 animals, whichever is less, is to be tested. Imported breeding swine originating from a country that meets the requirements for Stage V or a state that has been classified as Stage IV or Stage V under the Pseudorabies Eradication State-Federal-Industry Program Standards are exempt from the isolation and retest provisions. If there are multiple

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pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state if the state is split with a classification of Stage III and below. Split state status will be recognized for split III/IV and above.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
(217)782-3950

12) Comments may also be submitted via e-mail, addressed to: rules@isbe.net
Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2001

The text of the Proposed Amendments is identical to the text of Emergency Amendments that appear in this issue on page 11937 -

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- 1) Heading of the Part: Certification
- 2) Code Citation: 23 Ill. Adm. Code 25
- 3) Section Numbers: Proposed Action:
25.725 Amendment
25.760 Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.6, 14C-8, and Art. 21
- 5) A Complete Description of the Subjects and Issues Involved: These amendments provide technical corrections to material dealing with the test of basic skills that is required for teacher certification.

6) Will these proposed amendments replace an emergency amendment currently in effect? Yes

7) Do these rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? The rules do not contain an incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act.

9) Are there any other proposed amendments pending on this Part? Yes

Sections	Amendments	Illinois Register Citation
25.725	Amendment	25 Ill. Reg. 8929, July 20, 2001
25.760	Amendment	25 Ill. Reg. 8929, July 20, 2001
23.15	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.115	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.125	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.127	New Section	25 Ill. Reg. 11209, September 7, 2001
23.130	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.135	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.136	New Section	25 Ill. Reg. 11209, September 7, 2001
23.137	Repeal	25 Ill. Reg. 11209, September 7, 2001
23.140	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.145	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.155	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.165	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.620	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.710	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.780	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.805	Amendment	25 Ill. Reg. 11209, September 7, 2001

10) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a state mandate.

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- 1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision
- 2) Code Citation: 23 Ill. Adm. Code 1
- 3) Section Numbers: Proposed Action:
1.280 Amendment
1.285 New Section
- 4) Statutory Authority: 105 ILCS 5/2-3.6 and 2-3.126

5) A Complete Description of the Subjects and Issues Involved: These amendments implement Public Act 91-600, which took effect on August 14, 1999. That legislation requires the State Board to promulgate rules governing the use of time out and physical restraint in the public schools, including the record keeping that is to be required when these strategies are employed. In the development of these rules, the agency has sought to balance two important priorities: promoting the appropriate treatment of students and avoiding the imposition of unnecessarily burdensome requirements on schools.

The scope of P.A. 91-600 is not limited to students with disabilities. Consequently these rules are presented in the context of existing material found in Part 1 on the subject of the maintenance of discipline in schools. Local school boards are already required (by Section 24-24 of the School Code) to develop policies on discipline. Section 1.280 refers to this requirement and will be amplified by the present amendments to require the inclusion of certain information in the policy of any board that permits the use of isolated time out or physical restraint. A new Section 1.285 is also being added to define these strategies and describe the parameters that will apply to their use, some of which are taken directly from the statute.

It should be noted that the rule explicitly limits the use of isolated time out and physical restraint to instances when such a strategy is needed for maintaining discipline (i.e., a safe and orderly learning environment); these actions are not to be used in the sense of discipline as punishment.

- 6) Will these proposed amendments replace an emergency amendment currently in effect? No
- 7) Do these rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? The rules do not contain an incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act.

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- 9) Are there any other proposed rulemakings pending on this Part? Yes
- Section Numbers Proposed Action Illinois Register Citation
23.710 Amendment 25 Ill. Reg. 8968, July 20, 2001
- 10) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a state mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
(217)782-3950

Comments may also be submitted via e-mail, addressed to: rules@isbe.net

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None.
- B) Reporting, bookkeeping or other procedures required for compliance: Not applicable.
- C) Types of professional skills necessary for compliance: Not applicable.

- 13) Regulatory agenda in which this rulemaking was a summarized: This rule was not included on either of the 2 most recent regulatory agendas because: It was included on the January 2000 agenda.

The full text of the Proposed Amendments begins on the next page:

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

PART 1

PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: SCHOOL RECOGNITION REQUIREMENTS

Section	
1.10	Public School Accountability Framework
1.20	Operational Requirements
1.30	Quality Assurance Reviews
1.40	Student Performance and School Improvement Requirements (Repealed)
1.50	State Assessment
1.60	Operational Compliance (Repealed)
1.70	Effective Dates of Accreditation (Repealed)
1.80	Academic Early Warning and Watch Lists
1.85	Revisions to School Improvement Plans
1.90	System of Rewards and Recognition
1.100	Waiver and Modification of State Board Rules and School Code Mandates

SUBPART B: SCHOOL GOVERNANCE

Section	
1.210	Powers and Duties
1.220	Duties of Superintendent
1.230	Board of Education and the School Code
1.240	Equal Opportunities for all Students
1.245	Waiver of School Fees
1.250	District to Comply with 23 Ill. Adm. Code 170 and 180
1.260	Commemorative Holidays to be Observed by Public Schools
1.270	Book and Material Selection
1.280	Discipline
1.285	Requirements for the Use of Isolated Time Out and Physical Restraint
1.290	Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

Section	
1.310	Administrative Responsibilities
1.320	Duties
1.330	Hazardous Materials Training

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section

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1.410	Determination of the Instructional Program
1.420	Basic Standards
1.430	Additional Criteria for Elementary Schools
1.440	Additional Criteria for High Schools
1.445	Required Course Substitute
1.450	Special Programs
1.460	Credit Earned Through Proficiency Examinations
1.462	Uniform Annual Consumer Education Proficiency Test
1.465	Ethnic School Foreign Language Credit and Program Approval
1.470	Adult and Continuing Education
1.480	Correctional Institution Educational Programs

SUBPART E: SUPPORT SERVICES

Section	
1.510	Transportation
1.520	School Food Services
1.530	Health Services
1.540	Pupil Personnel Services (Repealed)

SUBPART F: STAFF CERTIFICATION REQUIREMENTS

Section	
1.610	Public School Districts
1.620	Accreditation of Staff
1.630	Noncertificated Personnel
1.640	Requirements for Different Certificates
1.650	Transcripts of Credits
1.660	Records of Professional Personnel

SUBPART G: STAFF QUALIFICATIONS

Section	
1.705	Minimum Requirements for Teachers
1.710	Minimum Requirements for Elementary Teachers
1.720	Minimum Requirements for Teachers of Middle Grades
1.730	Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades Six (6) and Above
1.735	Requirements to Take Effect on July 1, 1991
1.736	Requirements to Take Effect on July 1, 1994
1.740	Standards for Reading
1.750	Standards for Media Services
1.760	Standards for Pupil Personnel Services
1.770	Standards for Special Education Personnel
1.780	Standards for Teachers in Bilingual Education Programs
1.781	Requirements for Bilingual Education Teachers in Grades K-12
1.782	Requirements for Teachers of English as a Second Language in Grades K-12

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1.790 Substitute Teacher

- APPENDIX A Professional Staff Certification
 APPENDIX B Certification Quick Reference Chart
 APPENDIX C Glossary of Terms
 APPENDIX D State Goals for Learning
 APPENDIX E Evaluation Criteria - Student Performance and School Improvement Determination (Repealed)
 APPENDIX F Criteria for Determination - Student Performance and School Improvement (Repealed)
 APPENDIX G Criteria for Determination - State Assessment (Repealed)

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 26-13, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, and 27-23.3 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 26-13, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3, and 2-3.6].

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800, effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at 15 Ill. Reg. 2692, effective February 1, 1991; amended at 16 Ill. Reg. 18010, effective November 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1, 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255, effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended at 22 Ill. Reg. 22233, effective December 8, 1998; emergency amendment at 24 Ill. Reg. 6111, effective March 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12985, effective August 14, 2000; amended at 25 Ill. Reg. 8159, effective June 21, 2001; amended at 25 Ill. Reg. _____, effective _____.

SUBPART B: SCHOOL GOVERNANCE

Section 1.280 Discipline

Section 24-24 of the School Code [105 ILCS 5/24-24] provides for teachers, other certificated educational employees and persons providing a related service for or with respect to a student as determined by the board of education to maintain discipline in the schools.

- a) The board of education shall establish and maintain a parent-teacher advisory committee as provided in Section 10-20.14 of the School Code

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[105 ILCS 5/10-20.14].

- b) The board of education shall establish a policy on the administration of discipline in accordance with the requirements of Section 24-24 of the School Code [105 ILCS 5/24-24] and disseminate that policy as provided in Section 10-20.14 of the School Code.
- c) Any use of isolated time out or physical restraint permitted by a board's policy shall conform to the requirements of Section 1.285 of this Part. If isolated time out or physical restraint is to be permitted, the policy shall include:
- 1) the circumstances under which isolated time out or physical restraint will be applied;
 - 2) a written procedure to be followed by staff in cases of isolated time out or physical restraint;
 - 3) designation of a school official who will be informed of incidents and maintain the documentation required pursuant to Section 1.285 of this Part when isolated time out or physical restraint is used;
 - 4) the process the district or other administrative entity will use to evaluate any incident that results in serious injury to a student, a staff member, or another individual;
 - 5) a description of the alternative strategies that will be implemented when the time limits for isolated time out and physical restraint have been exceeded; and
 - 6) a description of the district's or other administrative entity's annual review of the use of isolated time out or physical restraint, which shall include at least:
 - A) the number of incidents involving the use of these interventions,
 - B) the location and duration of each incident,
 - C) identification of the staff members who were involved,
 - D) any injuries or property damage that occurred, and
 - E) the timeliness of parental notification and administrative review.
 - d) In addition to, or as part of, its policy on the maintenance of discipline, each board of education shall adopt policies and procedures regarding the use of behavioral interventions for students with disabilities who require such intervention. Each board's policies and procedures shall conform to the requirements of Section 14-8.5(c) of the school Code [105 ILCS 5/14-8.05(c)].

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 1.285 Requirements for the Use of Isolated Time Out and Physical Restraint

Isolated time out and physical restraint as defined in this Section shall be used only as means of maintaining discipline in schools and only to the extent

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that they are necessary to preserve the safety of students and others. Neither isolated time out nor physical restraint shall be used in disciplining individual students, i.e., as a form of punishment.

a) "Isolated time out" means the confinement of a student in a time-out room or some other enclosure, whether within or outside the classroom, from which the student's egress is restricted. The use of isolated time out shall be subject to the following requirements.

- 1) Any enclosure used for isolated time out shall:
 - A) have a ceiling height of not less than eight feet and minimum floor dimensions of six feet by six feet;
 - B) be constructed of materials that cannot be used by students to harm themselves or others, be free of electrical outlets, exposed wiring, and other objects that could be used by students to harm themselves or others, and be designed so that students cannot climb up the walls; and
 - C) be designed to permit continuous visual monitoring of and communication with the student.
- 2) If an enclosure used for isolated time out is fitted with a door, either a steel door or a wooden door of solid-core construction shall be used. Any door shall be at least three feet wide, with a minimum clear opening of 32 inches. If the door includes a viewing panel, the panel shall be unbreakable.
- 3) An adult who is responsible for supervising the student shall remain within two feet of the enclosure.
- 4) The adult responsible for supervising the student must be able to see the student at all times. If a locking mechanism is used on the enclosure, the mechanism shall be constructed so that it will engage only when a key, handle, knob, or other similar device is being held in position by a person.
 - A) The door to such an enclosure shall not remain locked when unattended.
 - B) Upon release of the locking mechanism by the supervising adult, the door must be able to be opened readily.
- b) "Physical restraint" means holding a student or otherwise restricting his or her movements. "Physical restraint" includes the use of specific, planned techniques (e.g., the "basket hold" and "team control").
- c) The requirements set forth in subsections (d) through (h) of this Section shall not apply to the actions described in this subsection (c) because, pursuant to Section 10-20.31 of the School Code [105 ILCS 5/10-20.31], "restraint" does not include momentary periods of physical restriction by direct person-to-person contact, without the aid of material or mechanical devices, accomplished with limited force and designed to:
 - 1) prevent a student from completing an act that would result in potential physical harm to himself, herself, or another or damage to property; or
 - 2) remove a disruptive student who is unwilling to leave the area

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voluntarily.

d) The use of physical restraint shall be subject to the following requirements.

1) Pursuant to Section 10-20.31 of the School Code, physical restraint may only be employed when:

- A) the student poses a physical risk to himself, herself, or others;
- B) there is no medical contraindication to its use; and
- C) the staff applying the restraint have been trained in its safe application as specified in subsection (h)(2) of this Section.

2) Students shall not be subjected to physical restraint for using profanity or other verbal displays of disrespect for themselves or others. A verbal threat shall not be considered as constituting a physical danger unless a student also demonstrates a means of or intent to carry out the threat.

3) Mechanical restraint (i.e., the use of any device other than personal physical force to restrict the limbs, head, or body) shall not be employed.

4) Medically prescribed restraint procedures employed for the treatment of a physical disorder or for the immobilization of a person in connection with a medical or surgical procedure shall not be used as means of physical restraint for purposes of maintaining discipline.

5) Any application of physical restraint shall take into consideration the safety and security of the student.

6) A student who is being physically restrained shall not be removed from the area where such restraint was initiated, except when necessary to protect the student or others or in an emergency such as fire or tornado.

7) If physical restraint is imposed upon a student whose primary mode of communication is sign language or an augmentative mode, the student shall be permitted to have his or her hands free of restraint for brief periods, unless the supervising adult determines that such freedom appears likely to result in harm to the student or others.

e) Time Limits

1) A student shall not be kept in isolated time out for more than 30 minutes after he or she ceases presenting the specific behavior for which isolated time out was imposed or any other behavior for which it would be an appropriate intervention.

2) A student shall be released from physical restraint immediately upon a determination by the staff member administering the restraint that the student is no longer in imminent danger of causing physical harm to him- or herself or others.

f) Documentation and Evaluation

1) A written record of each episode of isolated time out or physical restraint shall be maintained in the student's temporary record.

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The official designated pursuant to Section 1.280(c)(3) of this Part shall also maintain a copy of each such record. Each such record shall include:

- A) the student's name;
- B) the date of the incident;
- C) the beginning and ending times of the incident;
- D) a description of any relevant events leading up to the incident;
- E) a description of any interventions used prior to the implementation of isolated time out or physical restraint;
- F) a description of the incident and/or student behavior that resulted in isolated time out or physical restraint;
- G) a log of the student's behavior in isolated time out or during physical restraint, including a description of the restraint technique(s) used and any other interaction between the student and staff;
- H) a description of any injuries (whether to students, staff, or others) or property damage;
- I) a description of any planned approach to dealing with the student's behavior in the future;
- J) a list of the school personnel who participated in the implementation, monitoring, and supervision of isolated time out or physical restraint;
- K) the date on which parental notification took place as required by subsection (g) of this Section.

- 2) The school official designated pursuant to Section 1.280(c)(3) of this Part shall be notified of the incident as soon as possible, but no later than the end of the school day on which it occurred.
- 3) The record described in subsection (f)(1) of this Section shall be completed by the beginning of the school day following the episode of isolated time out or physical restraint.
- 4) The requirements of this subsection (f)(4) shall apply whenever an episode of isolated time out exceeds 30 minutes, or repeated episodes of physical restraint exceeds 15 minutes, or repeated episodes have occurred over a period totaling three hours.

A) A certified staff person knowledgeable about the use of isolated time out or trained in the use of physical restraint, as applicable, shall evaluate the situation.

B) The evaluation shall consider the appropriateness of continuing the procedure in use, including the student's potential need for medication or nourishment, and the need for alternate strategies (e.g., assessment by a mental health crisis team, assistance from police, or transportation by ambulance).

C) The results of the evaluation shall be committed to writing and copies of this documentation shall be placed into the student's temporary student record and provided to the official designated pursuant to Section 1.280(c)(3) of this

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Part.

- 5) Whenever a student has experienced three instances of isolated time out or physical restraint, the school personnel who initiated, monitored, and supervised the incidents shall review the effectiveness of the procedure(s) used and prepare an individual behavior plan for the student that provides either for continued use of these interventions or for the use of other, specified interventions. The plan shall be placed into the student's temporary student record. The review shall also consider the student's potential need for an alternative program or for special education.

g) Notification to Parents

- 1) A district whose policies on the maintenance of discipline include the use of isolated time out or physical restraint shall notify parents to this effect as part of the information distributed annually or upon enrollment pursuant to Sections 10-20.14 and 14-8.05(c) of the School Code [105 ILCS 5/10-20.14 and 14-8.05(c)].

- 2) A student's parent(s) shall be notified in writing within 24 hours after any use of isolated time out or physical restraint. Such notification shall include the student's name, the date of the incident, a description of the intervention used, and the name of a contact person with a telephone number to be called for further information.

h) Requirements for Training

1) Isolated Time Out

Each district, cooperative, or joint agreement whose policy permits the use of isolated time out shall provide orientation to its staff members covering at least the written procedure established pursuant to Section 1.280(c)(2) of this Part.

2) Physical Restraint

A) Physical restraint as defined in this Section shall be applied only by individuals who have received systematic training that includes all the elements described in subsection (h)(2)(B) of this Section and who have received a certificate of completion or other written evidence of participation. An individual who applies physical restraint shall use only techniques in which he or she has received such training.

B) Training with respect to physical restraint may be provided either by the employer or by an external entity and shall include, but need not be limited to:

- i) appropriate procedures for preventing the need for physical restraint, including the de-escalation of problematic behavior, relationship-building, and the use of alternatives in restraint;
- ii) a description and identification of dangerous behaviors on the part of students that may indicate

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the need for physical restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted;

- iii) the simulated experience of administering and receiving physical restraint and instruction regarding its effects on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;
- iv) instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and
- v) demonstration by participants of proficiency in administering physical restraint.

(Source: Added at 25 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Land and Water Conservation Fund Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3030
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
3030.5	New
3030.10	Amendment
3030.20	Amendment
3030.30	Amendment
3030.40	Amendment
3030.50	Amendment
3030.60	Amendment

APPENDIX A

- 4) Statutory Authority: Implementing and authorized by the Outdoor Recreation Resources Act [20 ILCS 860] and implementing Title VI of the Federal Civil Rights Act of 1964 (43 CFR 17, 1983).

- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to clarify project eligibility, application procedures, and project selection (ranking) criteria, and to eliminate outdated/irrelevant federal regulations.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

- 12) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not for profit corporations affected: Eligible applicants include any unit of local government that is empowered to acquire and develop lands for park and recreational purposes, such as cities, villages, park districts, conservation districts and forest preserve districts.
- B) Reporting, bookkeeping or other procedures required for compliance: If a local agency applies for and receives more than \$300,000 in LWCF assistance, then federal Single Audit Act regulations apply to the local government recipient.
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER 9: GRANTS

PART 3030

LAND AND WATER CONSERVATION FUND (LWCF) GRANT PROGRAM

Section	
3030.5	Definitions
3030.10	Statutory Basis
3030.20	Eligibility
3030.30	General Procedures for Grant Applications and Awards
3030.40	Selection Criteria
3030.50	Compliance Requirements
3030.60	Land and Water Conservation Fund Information
APPENDIX A	Project Evaluation Criteria

AUTHORITY: Implementing and authorized by the Outdoor Recreation Resources Act [20 ILCS 860] and implementing Title VI of the Federal Civil Rights Act of 1964 (43 CFR 17, 1983).

SOURCE: Adopted at 2 Ill. Reg. 45, p. 176, effective November 11, 1978; codified at 5 Ill. Reg. 10671; amended at 7 Ill. Reg. 8779, effective July 15, 1983; amended at 10 Ill. Reg. 13249, effective July 30, 1986; amended at 14 Ill. Reg. 6149, effective April 17, 1990; amended at 16 Ill. Reg. 1816, effective January 17, 1992; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 25 Ill. Reg. _____, effective _____.

Section 3030.5 Definitions

Applicant or Project Sponsor - means the eligible political subdivision or public agency within the State of Illinois to which funds from the LWCF Program may be transferred.

Department - means the Illinois Department of Natural Resources.

Director - means the Director of the Illinois Department of Natural Resources or any representative lawfully delegated the authority to act for the Director.

LWCF - means the federal Land and Water Conservation Fund grant program as authorized by the federal Land and Water Conservation Fund Act of 1965, as amended.

NPS - means the National Park Service, United States Department of the Interior.

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Project - means any project or project stage approved for Land and Water Conservation Fund Program assistance.

(Source: Added at 25 Ill. Reg. _____, effective _____)

Section 3030.10 Statutory Basis Bases of Grant Program

a) The Federal authority for the grants programs is stated in Section 1(b) of the Land and Water Conservation Fund Act of 1965, as amended (78-Stat--997) (16 USC 4601-4). The purposes of this Act are to assist in preserving, developing, and assuring accessibility to all citizens of the United States of America of present and future generations and visitors who are lawfully present within the boundaries of the United States of America such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation in such recreation and to strengthen the health and vitality of the citizens of the United States by (1) providing funds for and authorizing Federal assistance to the States in planning, acquisition, and development of needed land and water areas and facilities and (2) providing funds for the Federal acquisition and development of certain land and other areas.

b) The State authority for the grants-in-aid program is stated in Sections 1-5, Outdoor Recreation Resources and Facilities Act [20 ILCS 860/1-5] (111-Rev-Stat--1981-ch--1057-pars--531-535).

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 3030.20 Eligibility

- a) Any unit of local government that which is empowered to acquire and develop lands for park and recreational purposes, such as cities, villages, park districts, conservation districts and forest preserve districts Cities-Villages-Park-Districts--Conservation-Districts-forest-Preserve-Districts.
- b) Grant assistance may be obtained for land acquisition costs (fee simple title or permanent easement, etc.) for public park and/or conservation purposes. Eligible projects include, but are not limited to, acquisition of land for the following:
- 1) general park purposes such as community and neighborhood parks and playfields;
 - 2) frontage on public surface waters for recreation use;
 - 3) open space/conservation purposes to protect floodplains, wetlands, natural areas, wildlife habitat and unique geologic or biologic features; and

- 4) additions to such areas.
- c) Acquisition of land from another public agency (excluding school districts) is not eligible for LWCF grant assistance.
- d) Project costs for which reimbursement is sought cannot be incurred by the project applicant prior to grant approval notification or Department authorization. Costs incurred prior to Department approval are ineligible for grant assistance. For acquisition projects, costs are considered incurred when property deed, lease or other conveyance is accepted by the local sponsor or first payment is made on the project property or to an escrow account for the property. In addition, no purchase agreement, option, etc., or price negotiations shall be entered into without Department approval unless done in accordance with State statute.
- e) No grant awards shall be awarded for the acquisition of land that will not be available for general public outdoor recreation use.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 3030.30 General Procedures for Grant Applications and Awards

- a) A completed project application for assistance must be submitted by the local project sponsor to DNR in accordance with a schedule publicly announced annually by DNR, and received by the Department of Natural Resources--between--May--1--and--July--1--of--each--year--for consideration under the subsequent (October-1st)-federal--fiscal--year band-and-water-conservation-fund-grant-cycle.
- b) Information and instructions necessary for making application for LWCF assistance (OSLAD/LWCF Local Participation Manual) may be obtained from the Division of Grant Administration, Illinois Department of Natural Resources, 524 S. Second Street, Springfield IL 62701-1787, telephone: 217/782-7481.
- cb) The project application, as described in the OSLAD/LWCF Grant Program Local Participation Manual, consists of the following basic components information, at a minimum: which are described in detail in the band and water conservation fund--local-participation-Manual--which--is available--from--the-Department-of-Natural-Resources-upon-request--from local-political-subdivisions.
- 1) applicant's name, address and telephone number; General--project Data
 - 2) information on the supply of existing public park acreage and recreation facilities located within the project sponsor's (applicant) jurisdiction; Acquisition-Data
 - 3) an itemized proposed project description and cost estimate; Acquisition-Certification--(if-applicable)
 - 4) project narrative statement describing the project concept, location, need for and objectives of the project, anticipated

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(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 3030.40 Selection Criteria

The following factors are used by the Department in evaluating and recommending local project applications for funding assistance consideration (see Appendix A):

- a) Statewide Outdoor Recreation Priorities - 60%
 - 1) Department Statewide Priorities - 35%

Projects are evaluated in terms of their ability to address major outdoor recreation and conservation issues identified by the Department in its Statewide Outdoor Recreation Plan. These include, but are not limited to, natural area and wetland preservation, protection of endangered/threatened species and critical habitat resources, conservation education, creation of greenways and long distance trail corridors, water-based recreation, recreation for disadvantaged populations and adaptive re-use/redevelopment of urban lands, including brownfields. These priorities are listed in the Department's OSLAD/LWCF Local Participation Grant Manual; Illinois Department of Natural Resources Division of Grant Administration, 524 South Second Street, Springfield IL 62701-1787.
 - 2) Statewide Local Needs Assessment - 25%

Determination of local need is based on a comparison of:

 - A) existing local supply of recreation facilities per capita to the statewide median for those facilities as identified in the Department's Statewide Outdoor Recreation Plan; and
 - B) existing supply and distribution of open space and park land acreage, measured in acres/capita, to the statewide median and/or to locally adopted standards. Recreation needs based on project service area are also given consideration.
- b) Project concept and site characteristics - 25%

The project proposal is evaluated in terms of the site's physical and aesthetic qualities, including accessibility; soil, topographic and hydrologic characteristics; site vegetation; compatibility with adjacent land uses; environmental intrusion on the site; impacts to cultural and natural resources; and the overall recreational diversity provided by the project.
- c) Local Planning - 10%

The major consideration under this criteria is public support and input into the project plan and existence of a comprehensive local recreation and/or open space plan identifying the proposed project as a priority. Consideration is also given for unique recreation opportunities not specifically identified in a local plan but having documented widespread public support.
- d) Other Considerations - 5%

Relevant factors considered in evaluating the overall merits of a

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- benefits, proposed usages and method of financing or accomplishing the project; Resolution-of-Authorization
- 5) project location map, site plat (boundary) map and proposed development plan; Development-Data
 - 6) project environmental evaluation, including: Preliminary Recreation-Plan
 - A) State Historic Preservation Officer review;
 - B) Endangered and Threatened Species Impact review;
 - C) Wetland Impact review;
 - D) U.S. and Illinois Department of Agriculture Prime Farmland Impact review; and
 - E) State and Areawide Clearinghouse review (Executive Order 12372);
 - 7) a commitment of title insurance or other means of reviewing title for the project property planned for acquisition; Assurance--of Compliance
 - 8) verification that the applicant has the resources to initially finance and subsequently develop and manage the project area and will comply with program regulations and indemnify the Department from any liability relative to the project; Certification Regarding Federal-Debarment/Suspension
 - 9) a signed certification statement indicating the project sponsor (applicant) has not been debarred or suspended from federal grant-in-aid assistance; A-95-Review/Form-424
 - A) State-Historic-Preservation-Officer-Sign-Off
 - B) U-S-/Illinois-Departments-of-Agriculture-Sign-Off
 - 10) copy of Federal Emergency Management Agency (FEMA) flood map for project area; Narrative-Statement
 - 11) indication of project conformance to local, regional and State comprehensive outdoor recreation plans; and Premise-Plan
 - 12) Site-Development-Plan
 - 13) Environmental-Assessment-Statement
 - 14) Copy-of-Commitment-for-Title-Insurance
 - 15) Copy-of-Federal-Emergency-Management-Agency-(FEMA)-Flood-Map--for-Project-Area
 - 16) Three-Slides-of-Project-Area
 - 17) Indication---of---Conformance---to---Local---Master---Plan/Statewide Comprehensive-Outdoor-Recreation-Plan-(SCORP)
 - 18) Appraiser-Qualifications
 - 19) name and qualifications of two State licensed appraisers who potentially will be used to appraise the project property's value.
 - d) Failure to submit a correct and complete application by the publicly announced specified application deadline date will result in project rejection for that particular grant cycle (year).
 - e) Awarding of grants will be on a competitive basis (Section 3030.40) and is under authority of the Director of the Department of Natural Resources.

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project and need for funding include projects located in inner-urban areas; proposing initial site development; involving private donations; representing economic revitalization efforts; or from applicants not previously benefitting from LWCF assistance.

e) Penalty Factors - (deduct up to 15%)

Consideration is given to the applicant's past performance in completing LWCF or other Department grant projects or unresolved project violations, ability to properly maintain the project site, and failure to cooperate with the Department in completing the Illinois Recreation Facilities Inventory (IRFI).

f) Project Application Review and Grant Award:

Department grant staff, in consultation with executive and appropriate resource staff, reviews all applications in accordance with the established evaluation criteria. Preliminary recommendations are then submitted to the Department's Natural Resources Advisory Board for consideration at a public hearing conducted by the Board after which final recommendations are forwarded to the Director for LWCF grant approval.

a) SEORP Priorities---35%

Projects will be evaluated in terms of their ability to address/help remedy major outdoor recreation and conservation concerns and needs identified by the Department in its Statewide Comprehensive Outdoor Recreation Plan (SEORP). Copies of the plan are available from the Department. SEORP priorities are also listed in the Department's Band and Water Conservation Fund Local Participation Manual.

b) SEORP-Based Local Need Assessment---25%

Determination of need will be based upon comparison of (1) existing supply of recreation facilities per capita to the statewide median as identified in the State's Comprehensive Outdoor Recreation Plan (SEORP) and (2) existing supply and distribution of open space and park land with the amount of acreage per thousand proposed by nationally published by the National Recreation and Park Association in Recreation Park and Open Spaces Standards and Guidelines (1983) and/or locally adopted standards. Recreational needs based upon project service area are also given consideration.

c) Project Concept and Site Environmental Characteristics---25%

The site will be evaluated in terms of its aesthetic qualities and physical suitability for the proposed project. Factors considered are:

- 1) public access to the site;
- 2) soil characteristics;
- 3) hydrologic characteristics of the site and general area;
- 4) site vegetation;
- 5) compatibility with adjacent land uses;
- 6) site topography;
- 7) environmental intrusions impacting proposed use of site;
- 8) whether site is listed on the state's Natural Areas Inventory or the National Register of Historic Places; and

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9) diversity of recreational opportunities to be provided at the site:

d) local planning---10%

The major consideration under this category is the existence of a comprehensive local recreation and/or open space plan and identification of the proposed project as a priority for implementation. Consideration is also given for unique recreation opportunities not specifically identified in a local plan but having documented widespread public support.

e) Other Considerations---5%

Relevant factors considered in evaluating the overall merits of a project and need for funding include projects located in urban areas; proposing initial site development; representing part of an overall economic revitalization program; involving donations of land; cash materials or labor; and applicants who have not previously received Band and Water Conservation Fund grant assistance.

f) Penalty Factors---(deduct 15%)

Consideration is given to the local project applicant's past performance in completing Band and Water Conservation Fund projects; ability to properly maintain park facilities; unresolved violations concerning previous grant project sites and failure to cooperate with the Department in completing the Illinois Recreation Facilities Inventory.

g) Review and Award:

The Director of the Department of Natural Resources, with his staff, reviews all applicant projects in accordance with the established selection criteria outlined in this Section and submits them for review to the Conservation Advisory Board which conducts a public hearing after which and with due consideration, it recommends to the Director applications for State approval. Those projects are approved which best fill the recreation and open space needs in the State of Illinois.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 3030.50 Compliance Requirements

a) The local project sponsor is required to enter into a grant project agreement with the Department for an amount agreed upon as necessary to complete the approved project, specifying the related grant reimbursement amount and program compliance regulations.

b) Grant funds allocated by the Department to a local project sponsor under the Federal Land and Water Conservation Fund program shall be expended in accordance with all applicable federal and State statutes. Property acquired with funding assistance from the LWCF program shall be operated and maintained in perpetuity for public outdoor recreation use as set forth in this part and the LWCF Act. Property acquired

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with LWCF assistance may not be converted to a use other than public outdoor recreation use as provided in this Part without Department and NPS approval. At a minimum, approval for property conversion will be granted only if the project sponsor substitutes replacement property of at least equal fair market value and comparable outdoor recreation usefulness, quality and location as determined by the Department and NPS.

d) The acquisition cost or fair market value of real property acquired with LWCF assistance shall be based on an independent appraisal completed by a State licensed/certified general appraiser and submitted to the Department by the local project sponsor. The appraisals will be reviewed by the Department for acceptance and compliance with standard federal appraisal guidelines.

e) Upon project completion, the project sponsor must submit a certified project billing request (expenditure statement) listing/verifying all property acquired and funds expended on the project for which grant reimbursement is sought, as well as required billing documentation, as follows:

- 1) proof of good faith negotiations or fair market value offer to land seller;
- 2) copy of property deed and title insurance policy showing ownership transferred to the local project sponsor (or Judgment Order in the case of eminent domain); and
- 3) copies of canceled checks showing proof of payment to seller.

f) Eligible Project Costs
Project costs eligible for grant assistance shall be determined upon the basis of the criteria set forth in the federal Land and Water Conservation Fund Grants-in-Aid and OSLAD/LWCF Local Participation Manuals.

g) Project Termination

1) The State may unilaterally rescind project agreements at any time prior to project commencement if federal funds are rescinded. After project commencement, agreements may be rescinded, modified, or amended only by mutual agreement with the local project sponsor. A project shall be deemed commenced when the local political subdivision makes any expenditure or incurs any obligation with respect to the project.

2) Failure by the local project sponsor to comply with the terms of the Land and Water Conservation Fund program or to make satisfactory progress in completing the approved project per terms of the signed grant agreement shall be cause for the suspension of all obligations thereunder.

3) Failure by the project sponsor to comply with the above cited terms shall not be cause for the suspension of all Land and Water obligations if, in the judgment of the Director, such failure was due to no fault of the local project sponsor.

h) Conflict of Interests

1) No official or employee of the project sponsor who is authorized

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in his official capacity to negotiate, make, accept, or approve or to take part in such decisions regarding a contract or subcontract in connection with an approved Land and Water project shall have any financial or other personal interest in any such contract or subcontract.

2) No person performing services for the local project sponsor in connection with an approved Land and Water project shall have a financial or other personal interest, other than his employment or retention by that local political subdivision, in any contract or subcontract in connection with an approved Land and Water project. No officer or employee of a person retained by the local support sponsor shall have any financial or other personal interest in any real property acquired under an approved Land and Water project unless that interest is openly disclosed upon the public records of the local project sponsor, and such officer, employee or person has not participated in the acquisition for or on behalf of the local support sponsor.

i) Financial Records

1) The local project sponsor shall maintain legible financial accounts, documents, and records that accurately support project costs claimed for grant reimbursement, and shall make them available to the Director, NPS, the federal Department of the Interior, and to the U.S. General Accounting Office for auditing during regular business hours. The accounts, documents, and records shall be retained by the local political subdivision for five years following project termination.

2) The project sponsor may use any generally accepted accounting system.

j) Use of Facilities

1) The project sponsor shall not at any time convert any property acquired through the LWCF program to other than the public outdoor recreation uses specified in the project proposal without approval of the Department and Director of NPS. At a minimum, such approval will be given only upon the substitution of replacement property having equal fair market value and comparable outdoor recreation usefulness, quality and location as determined by the Department and NPS.

2) The project sponsor shall operate and maintain, or cause to be operated and maintained, property or facilities acquired through the LWCF program in the manner and according to the standards set forth in the federal Land and Water Grants-in-Aid Manual.

3) The project sponsor may enter into a contract or agreement with responsible concessionaires to operate and/or construct facilities, for dispersing food to the public and/or any other services as may be desired by the public and the sponsoring agency for enjoyable and convenient use of the LWCF-assisted site. Any and all concession revenue in excess of the costs of operation and maintenance of the LWCF

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lands and/or facilities shall be used for the improvement of those lands or facilities or similar nearby public facilities. All sub-leases or licenses entered into by the sponsoring agency with third persons relating to accommodations or concessions to be provided for or at the LWCF facility for benefit of the public shall be submitted to the Department, upon request, for its approval prior to the sub-lease or license being entered into or granted by the sponsoring agency.

k) Nondiscrimination

- 1) The local project sponsor shall not discriminate against any person on the basis of race, color, national origin, handicap or age in the use of any property or facility acquired with LWCF grant assistance.
- 2) The local political subdivision shall comply with the terms and intent of Title VI of the federal Civil Rights Act of 1964 (42 USC Subchapter V), and with the regulations promulgated pursuant to that Act by the U.S. Secretary of the Interior.

- 3) The local political subdivision shall not discriminate against any person on the basis of residence, except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence. Reasonable differences shall mean that fees charged to non-residents cannot exceed twice the amount charged to residents. When residents are not charged, but non-residents are charged, the non-resident fee cannot exceed fees charged for residents at comparable State or local public facilities having a fee system.

- l) The local project sponsor shall permanently post an LWCF acknowledgment sign at the project site. The necessary sign will be provided by the Department or specifications for its construction will be furnished to the local project sponsor, if requested.

- m) Projects assisted with LWCF grant funds shall be implemented in accordance with all applicable federal, State and local laws, ordinances and regulations pertaining to the public expenditures.

- n) The sponsoring agency shall indemnify, protect, defend and hold harmless the Department from any and all liability, costs, damages, expenses, or claims arising under, through or by LWCF-assisted facilities.

- o) In connection with and prior to the construction, and the subsequent operation and maintenance, of LWCF-assisted facilities, the project sponsor is responsible for obtaining any and all necessary construction permit, licenses or forms of consent required by law. Failure to obtain any required permits may jeopardize approved grant funding.

- p) The Department shall have access to LWCF-assisted facilities at all times for inspection purposes to ensure the project sponsor's continued compliance with this Part.

- q) The project sponsor shall certify that it provides a drug free

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workplace and related employee assistance as defined and required by the Drug Free Workplace Act [30 ILCS 105].

- r) that it has a written sexual harassment policy that includes, at a minimum, the following information:

- 1) the illegality of sexual harassment;
- 2) the definition of sexual harassment under State law;
- 3) a description of sexual harassment, utilizing examples;
- 4) the contractor's internal complaint process, including penalties;
- 5) the legal recourse, investigation and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission and directions on how to contact both; and
- 6) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act [775 ILCS 5/6-101]. A copy of the policy shall be provided to the Department of Human Rights upon request.

a) Definitions:

- 1) The term "NPS" as used herein means the National Park Service, United States Department of the Interior.
- 2) The term "Director" as used herein means the Director of the Illinois Department of Natural Resources or any representative lawfully delegated the authority to act for such Director.
- 3) The term "project" as used herein means any project or project stage approved for and Water Conservation Fund program assistance.
- 4) The term "State" as used herein means Illinois and the eligible political subdivision or public agency to which funds from the program may be transferred. Wherever a term condition obligation or requirement refers to the State such term condition obligation or requirement shall also apply to the recipient political subdivision or public agency.

b) Project Execution:

- 1) The State shall execute and complete the approved project in accordance with the time schedule set forth in the project proposal. Failure to render satisfactory progress or to complete this or any other project which is the subject of Federal assistance under this program to the satisfaction of the Director shall be cause for the suspension of all obligations of Federal aid and water assistance.

- 2) Construction contracted for shall meet the following requirements:

- A) Contracts for construction in excess of \$10,000 shall be awarded through a process of competitive bidding. Copies of all bids and a copy of the contract shall be retained for inspection by the Director.
- B) All bidders on contracts for construction in excess of \$10,000 must be informed that Federal funds are being used to assist in construction.

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- e) Written change orders to contracts for construction in excess of \$10,000 shall be issued for all necessary changes in the facility. Such orders shall be made a part of the project file and shall be kept available for audit.
- B) The following provisions will be incorporated into all construction contracts and during the performance of such contract the contractor agrees as follows:
- i) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, sex, age or disability. The contractor will not discriminate in hiring, promotion, demotion, or transfer, recruitment or reemployment, advertising, layoff, or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places available to employees and applicants for employment notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- ii) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, sex, age or disability, color or national origin.
- iii) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided by the agency contracting officer advising the labor union or workers representative of the contractor's commitments under Section 202 of the Federal Executive Order No. 11246, entitled "Equal Employment Opportunity", as amended by Federal Executive Order 11375 of October 13, 1967, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- iv) The contractor will comply with all provisions of Federal Executive Order No. 11246, as amended by Federal Executive Order 11375 of October 13, 1967, and of the rules, regulations and relevant orders of the United States Secretary of Labor.
- v) The contractor will furnish all information and

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- reports required by Federal Executive Order No. 11246, as amended by Federal Executive Order 11375 of October 13, 1967, and by the rules, regulations and orders of the U.S. Secretary of Labor or pursuant thereto, and will permit access to his books, records and accounts by the contracting agency and the U.S. Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- vi) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Federal Executive Order No. 11246, as amended by Federal Executive Order 11375 of October 13, 1967, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order, as amended, or by rule, regulation or order of the U.S. Secretary of Labor or as otherwise provided by law.
- vii) The contractor will include the provisions of Paragraphs (i) through (vi) in every subcontract on purchase order unless exempted by rules, regulations or orders of the U.S. Secretary of Labor issued pursuant to Section 204 of the Federal Executive Order No. 11246, as amended by Federal Executive Order 11375 of October 13, 1967, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including however, that in the event the contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
- B) The State shall:
- i) Comply with the above provisions in construction work carried out by itself.
- ii) Assist and cooperate actively with the NPS and the U.S. Secretary of Labor in obtaining the compliance of contractors and subcontractors with the above contract provisions and with the rules, regulations and relevant orders of the U.S. Secretary of Labor.

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- iii) Obtain--and--furnish--to--the--NPS--and--to--the--U.S. Secretary-of-Labor--local-bid-specifications, submitted bid--documents--and--awarded-construction-contracts-as they--may--require--for--the--supervision--of--such compliance.
- iv) Enforce--the--obligation--of--contractors--and subcontractors--under--such--provisions,--rules, regulations,--and--orders.
- v) Carry-out--sanctions--and--penalties--for-violation-of such--obligations--imposed--upon--contractors--and subcontractors--by--the--U.S. Secretary-of-Labor--or--the NPS--pursuant--to--Part--II--Subpart-B--of--federal Executive-Order--No--112467--as--amended--by--federal Executive-Order--11375--of--October-13, 1967.
- vi) Refrain--from--entering--into--any--contract--with--a contractor--debarred--from--Government--contracts--under Part--II--Subpart-B--of--federal Executive-Order--No--112467--as--amended--by--federal Executive-Order--11375--of--October-13, 1967.
- 3) The--State--shall--secure--completion--of--the--work--in--accordance--with the--approved--construction--plans--and--specifications,--and--shall secure--compliance--with--all--applicable--Federal,--State--and--local laws--and--regulations.
- 4) Local-political-subdivisions--shall--permit--periodic--site--visits--by the--Director--to--inspect--work--progress--in--accordance--with--the approved--project,--including--a--final--inspection--upon--project completion.
- 5) In--the--event--funds--should--not--be--available--for--future--stages--of the--project,--the--local-political-subdivision--shall--bring--the project--to--a--point--of--usefulness--agreed--upon--by--the--local political-subdivision--and--the--Director.
- 6) All--significant--deviations--from--the--project-proposal--shall--be submitted--to--the--Director--for--prior--approval. Deviations--which--do not--impact--or--diminish--the--approved--project's--recreational objective--shall--be--deemed--not--significant--and--shall--be--approved. Development--plans--and--specifications--shall--be--available--for review--by--the--Director--upon--request.
- 7) The--acquisition--cost--of--real-property--shall--be--based--upon--the appraisal--of--a--competent--appraiser. The--reports--of--such appraisers--shall--be--made--available--to--the--Director.
- 8) If--any--tract--or--parcel--of--or--interest--in--real-property--subject to--being--purchased--under--the--provisions--of--this--agreement,--but not--identified--herein,--is--found--by--the--Director--for--any--reason not--to--be--suitable--for--Federal--assistance,--all--obligations--of--the United--States--hereunder--shall--cease--as--to--such--parcel,--tract--or interest.
- 9) Federal--funds--administered--by--the--Department--under--the--Federal Land--and--Water--Conservation--Fund--program--will--be--expended--in

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- accordance--with--all--applicable--State--statutes--Project-costs.
- e) Project-costs--eligible--for--assistance--shall--be--determined--upon--the basis--of--the--criteria--set--forth--in--the--Federal--Land--and--Water Conservation--Fund--Grants--in--Aid--and--Illinois--Local--Participation Manuals.
- d) Project-Administration:
- 1) Local-political-subdivisions--shall--promptly--submit--such--reports as--the--Director--requests.
- 2) Property--and--facilities--acquired--or--developed--through--the--Land and--Water--program--shall--be--available--for--inspection--by--the Director--upon--request.
- e) Project-termination:
- 1) The--State--may--unilaterally--rescind--project--agreements--at--any--time prior--to--project--commencement--if--federal--funds--are--rescinded. After--project--commencement,--agreements--may--be--rescinded, modified--or--amended--only--by--mutual--agreement--with--the--local political-subdivision. A project--shall--be--deemed--commenced--when the--local-political-subdivision--makes--any--expenditure--or--incurs any--obligation--with--respect--to--the--project.
- 2) Failure--by--the--local-political-subdivision--to--comply--with--the terms--of--the--Land--and--Water--Conservation--Fund--Program--shall--be cause--for--the--suspension--of--all--obligations--thereunder.
- 3) Failure--by--the--local-political-subdivision--to--comply--with--the above--cited--terms--shall--not--be--cause--for--the--suspension--of--all Land--and--Water--obligations--if,--in--the--judgment--of--the--Director, such--failure--was--due--to--no--fault--of--the--local-political-subdivision.
- f) Conflict-of-Interests:
- 1) No--official--or--employee--of--the--local-political-subdivision--who--is authorized--in--his--official-capacity--to--negotiate--make,--accept, or--approve--or--to--take--part--in--such--decisions--regarding--a--contract or--subcontract--in--connection--with--an--approved--Land--and--Water project--shall--have--any--financial--or--other--personal--interest--in any--such--contract--or--subcontract.
- 2) No--person--performing--services--for--the--local-political-subdivision in--connection--with--an--approved--Land--and--Water--project--shall--have a--financial--or--other--personal--interest--other--than--his--employment or--retention--by--that--local-political-subdivision--in--any--contract or--subcontract--in--connection--with--an--approved--Land--and--Water project. No--officer--or--employee--of--such--person--retained--by--the local-political-subdivision--shall--have--any--financial--or--other personal--interest--in--any--real-property--acquired--under--an--approved Land--and--Water--project--unless--such--interest--is--openly--disclosed upon--the--public--records--of--the--local-political-subdivision--and such--officer,--employee--or--person--has--not--participated--in--the acquisition--for--or--on--behalf--of--the--local-political-subdivision.
- g) Financial-Records:

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Write: Illinois Department of Natural Resources
Division of Grant Administration ~~Technical Services~~
524 S. Second St.
Lincoln Tower Plaza
Springfield, Illinois 62701-1787
Telephone: 217/782-7481
e-mail: grants@dnrmail.state.il.us

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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- 1) The local political subdivision shall maintain legible financial accounts, documents, and records, which accurately support project costs claimed for grant reimbursement, and shall make them available to the Director, the NPS, the federal Department of the Interior, and to the U.S. General Accounting Office for auditing during regular business hours. Such accounts, documents, and records shall be retained by the local political subdivision for three years following project termination.
- 2) The local political subdivision shall use any generally accepted accounting system.
- h) Use of Facilities:
- 1) The local political subdivision shall not at any time convert any property acquired or developed through the Land and Water program to other than the public outdoor recreation uses specified in the project proposal without the prior approval of the Director and concurrence by the NPS. Such approval will be given only upon the substitution of replacement property having equal fair market value and comparable outdoor recreation usefulness, quality, and location.
- 2) The local political subdivision shall operate and maintain, or cause to be operated and maintained, property or facilities acquired or developed through the Land and Water program in the manner and according to the standards set forth in the federal Land and Water Grants-in-Aid Manual.
- i) Non-discrimination:
- 1) The local political subdivision shall not discriminate against any person on the basis of race, color, national origin, handicap or age in the use of any property or facility acquired or developed through the Land and Water program.
- 2) The local political subdivision shall comply with the terms and intent of Title VI of the federal Civil Rights Act of 1964, 78 Stat. 241 (1964), 42 U.S.C. Subchapter V, and with the regulations promulgated pursuant to such Act by the U.S. Secretary of the Interior.
- 3) The local political subdivision shall not discriminate against any person on the basis of residence, except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence. Reasonable differences shall mean that fees charged to non-residents cannot exceed twice the amount charged to residents. When residents are not charged but non-residents are charged, the non-resident fee cannot exceed fees charged for residents at comparable State or local public facilities having a fee system.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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Section 3030. APPENDIX A Project Evaluation Criteria

STATEWIDE RECREATION PRIORITIES (35%)

Preservation/management of natural areas, wetlands, endangered and threatened species sites; preservation/improvement of wildlife habitat areas; conservation education; water-based recreation opportunities; preservation of greenways and long-distance trail corridors; intergovernmental cooperation benefitting recreation; and improvement of recreation opportunities for disadvantaged populations.

STATEWIDE LOCAL RECREATION NEEDS (25%)

Facility need based on comparison of existing local supply to statewide median.

Development Project (0 - 10 points)

(none, some, majority or all facilities of high need)

Acquisition Project (0 - 5 points)

(same factors as for development)

Existing supply of available local recreation acreage compared to statewide median for local agencies or locally identified standard per local plan. An evaluation of the types of park acreage available (park system balance) between community parks and neighborhood (walk to) parks is evaluated based on the guideline that approximately 80% of local acreage should be devoted to community park facilities and 20% to neighborhood (walk to) parks.

Development Projects (0 - 5 points)

Acquisition Projects (0 - 10 points)

Specific Project "Service Area" (0 - 10 points)

Neighborhood Park

(highest priority: 1/2 mile service radius)

(2nd priority: 1/4 mile service radius)

(lowest priority: overlapping service areas)

Community Park

(highest priority: 1st such park within 2 mile radius)

(2nd priority: 1st park within 1 mile radius)

(lowest priority: similar facility in service area)

County/Regional Park (multi-community service area)

(Note: physical barriers restricting travel are taken into consideration.)

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Exceptions within this category:

(project prevents loss of existing facility)
(project represents unique opportunity with public support or protects important natural areas)

PROJECT JUSTIFIED BY LOCAL PLAN (10%)

Identified as priority in local plan

Development Project (0 - 5 points)

Acquisition Project (0 - 8 points)

Evidence of "direct" public involvement in project/plan

Development Project (0 - 5 points)

Acquisition Project (0 - 2 points)

PROJECT CONCEPT AND ENVIRONMENTAL SUITABILITY (25%)

Site Suitability (0 - 13 points)

access to site (vehicular/pedestrian, parking, etc.)
environmental factors and impacts
adjacent land use compatibility
safety issues

Site Design/Concept (0 - 12 points)

recreational diversity, including multi-season use
adequate support facilities
diversity of age groups benefitting
site aesthetics and design
site impacts on adjacent land uses
facility cost/benefit assessment

OTHER CONSIDERATIONS (5%)

land or cash donation or volunteer involvement
initial site development
high-density urban population areas
project part of community economic redevelopment initiative
grant "fair share" distribution factor
project by newly created agency

PROJECT PENALTIES (up to 15 point deduction or possible ineligibility)

poor past grant performance or "unresolved" project violation
evidence of poor facility maintenance by agency
failure to cooperate with Department in supplying Illinois Recreation
Facilities Inventory data

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necessary application "follow-up" response time unsatisfactory

(Source: Added at 25 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Disabled Hunting Method Authorizations

2) Code Citation: 17 Ill. Adm. Code 760

3) Section Numbers: 760.30
Proposed Action: Amendment

4) Statutory Authority: Implementing and authorized by Section 2.33 of the Wildlife Code [520 ILCS 5/2.33].

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to allow Class A (permanent disability) standing vehicle permits to be issued to individuals who are unable to ambulate, or who suffer from cardiovascular or lung disease to the extent that they would otherwise be unable to hunt; and Class B (temporary disability) standing vehicle permits to individuals who are temporarily disabled and have restricted ambulation due to casts, surgery, illness or injury.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

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C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

SUBCHAPTER b: FISH AND WILDLIFE

PART 760

DISABLED HUNTING METHOD AUTHORIZATIONS

Section

760.10 Issuance of Permits

760.20 Crossbow Permits

760.30 Standing Vehicle Permits

760.40 Rejection of Application/Revocation of Permits

AUTHORITY: Implementing and authorized by Section 2.33 of the Wildlife Code [520 ILCS 5/2.33].

SOURCE: Adopted at 24 Ill. Reg. 4950, effective March 13, 2000; amended at 24 Ill. Reg. 19178, effective December 18, 2000; amended at 25 Ill. Reg. 6899, effective May 21, 2001; amended at 25 Ill. Reg. _____, effective _____.

Section 760.30 Standing Vehicle Permits

a) Eligibility

1) Class A - Permanent Disability

After proper application, the Department may issue a Class A permit to shoot from a standing vehicle to paraplegics or other persons, if the person meets any of the following: persons physically-unable-to-walk-due-to-a-permanent-disability;

A) has a permanent or irreversible physical disability, is unable to ambulate and requires a wheelchair, walker, one leg brace or external prosthesis above the knee, 2 leg braces or external prosthesis below the knees, 2 crutches or 2 canes for mobility;

B) suffers significantly from lung disease, to the extent that forced expiratory volume for one second when measured by spirometry is less than one liter or arterial oxygen tension is less than 60 millimeters of mercury on room air at rest;

or

C) suffers significantly from cardiovascular disease, to the extent that functional limitations are classified in severity as class 3 or 4, according to the standards accepted by the American Heart Association on May 3, 1988, and where ordinary physical activity causes discomfort, fatigue, palpitation, dyspnea or anginal pain.

2) Class B - Temporary Disability

After proper application, the Department may issue a Class B permit to shoot from a standing vehicle to persons who are

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temporarily disabled and have restricted ambulation due to: physically-unable-to-walk--due-to-a-temporary-disability--the licensed-physician-completing--the-medical--portion--of--the application--must-provide-an-approximation-of-how-long-it-will-be before-the-applicant-has-sufficiently-recovered-to-the-point-that he/she-is-no-longer-physically-unable-to-walk-

A) a leg, hip or back, or any part thereof, casted by a licensed physician;

B) post-surgical effects of leg, hip or back surgery; or

C) illness or injury.

3) Per--the--purposes--of--this-Section--"physically-unable-to-walk" shall-mean-that-the-applicant-is-incapable-of-walking-more-than-2 steps-(4-feet)-

b) Class A permits issued under this Section shall be valid for a period of 3 years from the date of issuance as specified on the permit. Class B permits issued under this Section shall be valid for a period of not more than 90 days from the date of issuance as specified on the permit.

c) Loss of the standing vehicle hunting permit shall require the holder to reapply.

d) Reapplication for a Class A permit will require the applicant to certify that he is still suffering from a permanent physical disability that renders him unable to walk. Reapplication for a Class B permit requires the same documentation as an original application.

e) Standing Vehicle Hunting Rules

1) Standing vehicle permit holders are authorized to shoot from a vehicle that is totally immobile with the engine turned off. When the vehicle is moving, guns must be unloaded and enclosed in a case, and bow and arrow devices unstrung, enclosed in a case or otherwise rendered inoperable, in accordance with Section 2.33(n) of the Wildlife Code [520 ILCS 5/2.33(n)]. Holders of Standing Vehicle Permits, who are in the field legally hunting pheasant, quail, Hungarian partridge or rabbit, shall be permitted to carry a loaded and uncased shotgun in or on a vehicle or conveyance in accordance with the provisions of 17 Ill. Adm. Code 530.10(b).

2) The standing vehicle permit applies only on private property where permission of the landowner has been obtained. It does not apply on public roadways. Persons wishing to shoot/hunt from a standing vehicle on Department-owned or managed properties must obtain permission from the Site Superintendent in accordance with 17 Ill. Adm. Code 110.

3) Season dates, hours, daily limits, possession limits, and all other requirements by law apply.

4) The issuance of a standing vehicle permit does not exempt the holder from the necessity of obtaining hunting licenses, stamps, or other permits as required by law.

5) The standing vehicle permit must be carried by the hunter while exercising this privilege and must be presented to any law

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enforcement authority upon request.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Numbers: Proposed Action:
100.7010 Amendment
- 4) Statutory Authority: 35 ILCS 5/701(b)

5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends 86 Ill. Adm. Code 100.7010 to eliminate an apparent conflict with the provisions of IITA Section 701(b) and 86 Ill. Adm. Code 100.7030, which require withholding on taxable amounts paid to an Illinois resident if federal income tax is required to be withheld from such payment and the payment is not subject to withholding by another state.

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>IL Register Citation</u>
100.2101	Amendment	08/24/01, 25 Ill. Reg. 10711
100.5270	Amendment	08/31/01, 25 Ill. Reg. 11035
100.2163	Amendment	09/07/01, 25 Ill. Reg. 11340

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Paul Caselton
Deputy General Counsel - Income Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-7055

12) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: No new procedures are required.
- C) Types of professional skills necessary for compliance: No new skills will be required.

13) Regulatory Agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section
100.2000 Introduction
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section
100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone (IITA 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
100.2160 Research and Development Credit (IITA 201(k))
100.2165 Education Expense Credit (IITA 201(m))
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180 Credit for Residential Real Property Taxes (IITA 208)
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

Section
100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Scope
100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Definitions
100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Current Net Operating Losses; Offsets Between Members
100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Carrybacks and Carryforwards

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100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Effect of Combined Net Operating Loss in Computing Illinois Base Income
100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER
DECEMBER 31, 1986

Section
100.2300 Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986
100.2310 Computation of the Illinois Net Loss Deduction
100.2320 Determination of the Amount of Illinois Net Loss Carryovers
100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring on or After December 31, 1986
100.2340 Illinois Net Loss Deductions of Corporations That are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
100.2350 Illinois Net Loss Deductions of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS,
CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section
100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section
100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section

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100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF
BASE INCOME

Section
100.3000 Terms Used in Article 3 (IITA Section 301)
100.3010 Business and Nonbusiness Income (IITA Section 301)
100.3020 Resident (IITA Section 301)

SUBPART J: COMPENSATION PAID TO NONRESIDENTS

Section
100.3100 Compensation (IITA Section 302)
100.3110 State (IITA Section 302)
100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
100.3200 Taxability in Other State (IITA Section 303)
100.3210 Commercial Domicile (IITA Section 303)
100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other than Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
100.3310 Business Income of Persons Other than Residents (IITA Section 304) - In General
100.3320 Business Income of Persons Other Than Residents (IITA Section 304) - Apportionment (Repealed)
100.3330 Business Income of Persons Other Than Residents (IITA Section 304) - Allocation
100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
100.3350 Property Factor (IITA Section 304)
100.3360 Payroll Factor (IITA Section 304)
100.3370 Sales Factor (IITA Section 304)
100.3380 Special Rules (IITA Section 304)
100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section
100.5000 Time for Filing Returns: Individuals (IITA Section 505)

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100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)

100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
100.5040 Innocent Spouses

SUBPART O: COMPOSITE RETURNS

Section
100.5100 Composite Returns: Eligibility
100.5110 Composite Returns: Responsibilities of Authorized Agent
100.5120 Composite Returns: Individual Liability
100.5130 Composite Returns: Required forms and computation of Income
100.5140 Composite Returns: Estimated Payments
100.5150 Composite Returns: Tax, Penalties and Interest
100.5160 Composite Returns: Credit for Resident Individuals
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

SUBPART P: COMBINED RETURNS

Section
100.5200 Filing of Combined Returns
100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205 Election to File a Combined Return
100.5210 Procedures for Elective and Mandatory Filing of Combined Returns
100.5220 Designated Agent for the Members
100.5230 Combined Estimated Tax Payments
100.5240 Claims for Credit of Overpayments
100.5250 Liability for Combined Tax, Penalty and Interest
100.5260 Combined Amended Returns
100.5265 Common Taxable Year
100.5270 Computation of Combined Net Income and Tax
100.5280 Combined Return Issues Related to Audits

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section
100.7000 Requirement of Withholding (IITA Section 701)
100.7010 Compensation Paid in this State (IITA Section 701)
100.7020 Transacting Business Within this State (IITA Section 701)
100.7030 Payments to Residents (IITA Section 701)
100.7040 Employer Registration (IITA Section 701)
100.7050 Computation of Amount Withheld (IITA Section 701)
100.7060 Additional Withholding (IITA Section 701)
100.7070 Voluntary Withholding (IITA Section 701)

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100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090 Reciprocal Agreement (IITA Section 701)
100.7095 Cross References

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section
100.7100 Withholding Exemption (IITA Section 702)
100.7110 Withholding Exemption Certificate (IITA Section 702)
100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART S: INFORMATION STATEMENT

Section
100.7200 Reports for Employee (IITA Section 703)
SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section
100.7300 Returns of Income Withheld from Wages (IITA Section 704)
100.7310 Quarterly Returns Filed on an Annual Basis (IITA Section 704)
100.7320 Time for Filing Returns (IITA Section 704)
100.7330 Payment of Tax Deducted and Withheld (IITA Section 704)
100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)

SUBPART U: COLLECTION AUTHORITY

Section
100.9000 General Income Tax Procedures (IITA Section 901)
100.9010 Collection Authority (IITA Section 901)
100.9020 Child Support Collection (IITA Section 901)

SUBPART V: NOTICE AND DEMAND

Section
100.9100 Notice and Demand (IITA Section 902)

SUBPART W: ASSESSMENT

Section
100.9200 Assessment (IITA Section 903)
100.9210 Waiver of Restrictions on Assessments (IITA Section 907)

SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section
100.9300 Deficiencies and Overpayments (IITA Section 904)

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100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
100.9320 Limitations on Notices of Deficiency (IITA Section 905)
100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART Y: CREDITS AND REFUNDS

Section
100.9400 Credits and Refunds (IITA Section 909)
100.9410 Limitations on Claims for Refund (IITA Section 911)
100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART Z: INVESTIGATIONS AND HEARINGS

Section
100.9500 Access to Books and Records (IITA Section 913)
100.9505 Access to Books and Records -- 60-Day Letters (IITA Section 913) (Repealed)
100.9510 Taxpayer Representation and Practice Requirements
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SUBPART AA: JUDICIAL REVIEW

Section
100.9600 Administrative Review Law (IITA Section 1201)

SUBPART BB: DEFINITIONS

Section
100.9700 Unitary Business Group Defined (IITA Section 1501)
100.9710 Financial Organizations (IITA Section 1501)
100.9720 Nexus

SUBPART CC: LETTER RULING PROCEDURES

Section
100.9800 Letter Ruling Procedures

APPENDIX A

Business Income Of Persons Other Than Residents

TABLE A Example of Unitary Business Apportionment

TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg.

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49 p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 15, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687,

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effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 25 Ill. Reg. _____, effective _____.

Section 100.7010 Compensation Paid in this State (IIITA Section 701)**a) General rules**

1) Withholding is required with respect to "compensation paid in this State" - but see Section 100.7090 with regard to reciprocal withholding exemption agreements for employees residing in certain states. Illinois will recognize reciprocal withholding exemption agreements for those individuals subject to withholding by virtue of P.A. 87-880, to the extent that the state of residence of the team by which they are employed recognizes the reciprocal withholding exemption agreement with respect to individuals employed by teams with Illinois residence. The entire amount of such compensation is subject to withholding if withholding is required under Section 100.7000. The tests for determining whether compensation is paid in this State appear in IIITA Section 304(a)(2)(B) and are substantially the same as those used to define "employment" in the Illinois Unemployment Compensation Act [820 ILCS 405] (and similar unemployment compensation acts of other states). Compensation is paid in this State if:

- A) The individual's service is localized in this State because it is performed entirely within this State;
- B) The individual's service is localized in this State although it is performed both within and without this State, because the service performed without this State is incidental to the individual's service performed within this State; or
- C) The individual's service is not localized in any state but some of the service is performed within this State and either; the base of operations, or if there is not a base of operations, the place from which the service is directed or controlled is within this State, or the base of operations of the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

2) For purposes of subsection (a)(1)(A), beginning with taxable years ending on or after December 31, 1992, for all persons who are members of professional sports teams that are residents of states that impose a comparable tax liability on all persons who are members of professional sports teams that are residents of this State, ..., in the case of persons who perform personal services under personal service contracts

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for sports performances, services by that person at a sporting event taking place in Illinois shall be deemed to be a performance entirely within this State. (IITA Section 304(a)(2)(B))

3) The foregoing rules are to be applied in such manner that, if they were in effect in other states, an item of compensation would constitute "compensation paid in" only one state. Thus, if an item would, under these rules, constitute compensation paid in a state other than Illinois because the individual's service was localized in such other state under the test of subsection (a)(1)(A) above, it could not also be compensation paid in Illinois.

b) Place of residence of employee

1) In general, except Except in the limited circumstances referred to in subsection (a)(1)(C) above and subsections (b)(2) and (3) below, the place of residence of any employee is irrelevant to the determination of "compensation paid in this State", and is, therefore, irrelevant--to--the--determination--of whether withholding is required with respect to such employee. However, compensation paid to residents that would not otherwise be considered "compensation paid in this State" applying the rules of IITA Section 304(a)(2)(B) may be deemed "compensation paid in this State" under IITA Section 701(b) and therefore be subject to withholding in accordance with Section 100.7030 of this Part. In addition, compensation paid to residents of a state with which Illinois has entered into a reciprocal agreement (see Section 100.7090) and that would be considered "compensation paid in this State" applying the rules of IITA Section 304(a)(2)(B) is exempt from withholding.

2) Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers, merchant mariners, and air carriers to Illinois income taxation and withholding. See Section 100.2590 which provides that certain employees of rail carriers, motor carriers, merchant mariners, and air carriers may only be subject to the income tax laws of any state or subdivision of that state of the employee's residence.

3) Federal law also affects the authority of the State to withhold income tax from employees of certain water carriers and merchant mariners. 49 USCA 11108 states that wages due or accruing to a master or seaman on a vessel in the foreign, coastwise, intercoastal, interstate, or noncontiguous trade or an individual employed on a fishing vessel or any fish processing vessel may not be withheld under the tax laws of a state or a political subdivision of a state. However, this Section does not prohibit withholding wages of a seaman on a vessel in the coastwise trade between ports in the same state if the withholding is under a voluntary agreement between the seaman and employer of the

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seaman. It should be noted that this provision affects only the authority of this state to have Illinois income tax withheld from wages of these employees. It does not affect the obligation of these employees to pay Illinois income taxes or to make payments of estimated income taxes as required under IITA Section 803.

c) Localization tests

1) If compensation is paid in this State because the service is localized here under either of the tests set forth in subsections (a)(1)(A) and (B) above, no other factors need be considered. In such cases, the place of the base of operations, the place from which the service is directed or controlled, and the place of the individual's residence are all irrelevant. (But see Section 100.7090.)

2) In determining whether an individual's service performed without this State is incidental to his service performed within this State for purposes of the test set forth in subsection (a)(1)(B) above, the term "incidental" means any service which is necessary to or supportive of the primary service performed by the employee or which is temporary or transitory in nature or consists of isolated transactions. The incidental service referred to above may or may not be similar to the individual's normal occupation so long as it is performed within the same employer-employee relationship. That is, an individual who normally performs all of his service in this State may be sent by his employer to another state to perform service which is totally different in nature from his usual work or he may be sent to do similar work. So long as such service is temporary or consists merely of isolated transactions, it will be considered to be incidental to his service performed within this State, and his entire compensation will be subject to withholding.

3) In some cases, it may be difficult to determine whether service performed in another state is incidental to service performed within this State. In any such case, the facts (including any contract of employment) should be carefully considered. In many instances, the contract of employment will provide a definite territorial assignment which will be prima facie evidence that the service is localized within such territory. However, the presence or absence of a contract of employment is but one fact to be considered. In every case, the ultimate determination to be made is whether the individual's service was intended to be and was in fact principally performed within this State and whether any service which was performed in another state was of a temporary or transitory nature or arose out of special circumstances at infrequent intervals. The amount of time spent or the amount of service performed without this State should not be regarded

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as decisive, in itself, in determining whether such service is incidental to service performed within this State. For example, an individual normally performing service within this State might be sent on a special assignment to another state for a period of months. The service in the other state would nevertheless be incidental to service within this State if such special assignment were an isolated transaction.

4) This Section may be illustrated by the following examples:

- A) A is a resident of State X and is a salesman for the B corporation, located in State Y. A's base of operations is his home in State X and his service is controlled from State Y. All of A's customers are located in Illinois. A's compensation is subject to withholding even though he is a nonresident with a State X base of operations, who is directed from State Y, because all of his service is performed in Illinois.
- B) A is a resident of State X and a salesman for the B Corporation, located in State X. A's territory covers the northern part of Illinois. Sporadically, A is requested by B corporation to call on particular customers who are located in State X. The compensation for service which A performs in Illinois and State X is subject to withholding because the service performed in State X is incidental to the service performed in Illinois, since it consists of isolated transactions.
- C) The facts are the same as in the previous example except that A's regular territory covers several counties in Illinois and one or two towns in State X. A goes to the State X towns on a regular basis even though more than 95% of his time and sales are with reference to his Illinois territory. The compensation for service which A performs in Illinois and State X is not localized in Illinois within the meaning of subsection (a)(2) above because the service performed in State X is regular and permanent in nature and is not necessary to or supportive of sales made in Illinois. Whether withholding is required must therefore be determined under subsection (a)(1)(C) above (see subsections (d) and (e) below).
- D) A works for B construction company in Chicago. Occasionally the company obtains a construction job in State X which may last from one to several weeks. A is sent by the company to supervise the construction jobs in State X. The compensation for the service A performs in Illinois and State X is subject to withholding because the service performed in State X, being temporary in nature, is incidental to the service which he performs in Illinois.

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- E) A is a resident of Illinois and a buyer for a department store located in State X. Regular buying trips by A to Illinois are incidental to the service performed in State X because they are necessary to and supportive of A's primary duties which are localized in State X and not in Illinois. Unless compensation for the services which A performs in Illinois and State X is deemed "compensation paid in this State" pursuant to IITA Section 701(b) and Section 100.7030 of this Part, compensation for the services which A performs in Illinois and State X is not subject to withholding, notwithstanding that A being a resident, is taxable in Illinois on such compensation under IITA Sections 201 and 301(a).

d) Base of operations

- 1) The localization tests are not applicable where an individual's employment normally or continually includes service within this State and also services without the State which are not "incidental" to the services performed within this State. In such case, if the individual's base of operations is within this State, his entire compensation will be subject to withholding, but if his base of operations is without this State, none of his compensation will be subject to withholding.
- 2) The term "base of operations" refers to the place or fixed center from which the individual works. An individual's base of operations may be his business office (which may be maintained in his home), or his contract of employment may specify a place at which the employee is to receive his directions and instructions. In the absence of more controlling factors, an individual's base of operations may be the place to which he has his business mail, supplies, and equipment sent or the place where he maintains his business records.
- 3) This Section may be illustrated by the following examples:
- A) A is a salesman for the B corporation located in Chicago. His territory includes Illinois, State X and State Y. A uses the corporation office in Chicago as a base of operations. The compensation for service performed by A is subject to withholding because the service is not localized in any of the three States in which it is performed, but part of the service is performed in Illinois and A's base of operations is in Illinois.
- B) A is a salesman for the B corporation located in Chicago. A lives in State X and his territory includes State X and part of Cook County, Illinois. A starts his sales calls from and returns to his home daily. He keeps a catalogue and copies of correspondence from

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customers at his home, and writes his sales reports there. About once a week he reports to B's sales office in Chicago for consultation with and directions from the sales manager. Communications from customers to A are addressed to the Chicago sales office. A's letters to customers are on letterheads bearing the Chicago sales office address and are sometimes typed by A at home and sometimes dictated by him to a stenographer when he is in the Chicago sales office. Correspondence to A and his paychecks are sometimes picked up by A in Chicago and otherwise are forwarded by the sales office to his home. The duties which A performs at home are sufficient to make his home his base of operations. A's compensation is therefore not subject to withholding because his base of operations is in State X, and part of his service is performed in that state.

C) A, a resident of Illinois, sells products in Illinois, State X and State Y for B corporation, which is located in State Z. A operates from his home, where he receives instructions from his employer, communications from his customers, etc. Once a year, A goes to State Z for a 10 day sales meeting. All of A's compensation is subject to withholding; the service is not localized in any state but part of the service is performed in Illinois and A's base of operations is his home in Illinois.

D) A works for a company whose home office is in State X. He is a regional director working out of a branch office in Illinois. He works mostly in Illinois but spends considerable time in State X. A's base of operations is the branch office in Illinois. Since he performs some service in Illinois and his base of operations is in Illinois, it is immaterial that his source of direction and control is in State X. All of A's compensation for service is subject to withholding.

E) A, a resident of Illinois, is a salesman for the B corporation, which has its main office in State X. A works out of the main office and his territory is divided equally between State X and Illinois. A's compensation is not subject to withholding because his base of operations is in State X, and part of his service is performed in that State.

F) A, an airplane pilot for B Airline, lives in State X and regularly flies between Chicago and cities in other states. A does not have an office but reports to a flight operations office in Chicago which determines flight assignments for A and other pilots reporting to that office. A receives his paycheck and other company mail at the flight operations

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office in Chicago. A's base of operations is Illinois. He performs some service in Illinois and it is not "incidental" to service performed elsewhere. All of A's compensation for service is subject to withholding.

e) Place of direction or control

1) The permanent place from which the employee's service is directed or controlled is relevant in determining whether wages are subject to withholding if the localization tests are not applicable and it is impossible to determine the base of operation for such individual. In such a case, if both the place from which the individual's service is directed or controlled is within this State, and some of the service is performed within this State, then his entire compensation will be subject to withholding, but if not, none of his compensation will be subject to withholding. For example, a salesman's territory may be so indefinite and so widespread that he will not retain any fixed business office or address but will receive his orders or instructions by mail or wire wherever he may happen to be. In such case, the location of the permanent place from which direction and control is exercised must be determined.

2) The previous subsection may be illustrated by the following examples:

- A) A, a resident of State X, is employed as a salesman by B, a corporation with its main office in State Y. B has a permanent branch office and sales supervisor in Cairo, Illinois. A was hired by the branch office and sells merchandise for B in Illinois and other neighboring states as directed by the branch office in telephone calls but he has no place which he uses as a base of operations. All of the compensation for service performed by A for B is subject to withholding because A's service is not localized in any of the states in which he operates and he has no base of operations, but part of his service is performed in Illinois and the place from which the service is directed is in Illinois.
- B) A is a salesman residing in State X, who works for a concern whose factory and selling office is in Chicago, Illinois. A's territory covers five states, including Illinois. He does not report, start from or return to the Chicago office or from his residence in State X. State X is the territory of another salesman. A does not have a base of operations but would be subject to withholding since part of his service is performed in Illinois and the place from which the service is directed is in Illinois.
- C) A, a contractor whose main office is in Illinois, is

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regularly engaged in road construction work in Illinois and State X. All operations are under direction of a general superintendent whose permanent office is in Illinois. Work in each state is directly supervised by field supervisors working from temporary field offices located in each of the two states. Each field supervisor has the power to hire and fire personnel; however, all requests for manpower must be cleared through the Illinois office. Employees report for work at the field offices. Time cards are sent weekly to the main office in Illinois where the payrolls are prepared. A is hired by a field supervisor in State X; he regularly performs service in both Illinois and State X. In such case, neither the localization nor the base-of-operations test would apply, but A's compensation would be subject to withholding. Part of A's service is performed in Illinois and his service is regarded as controlled from Illinois because the permanent office from which basic direction and control emanates is the Illinois office.

f) When residence is important

1) Residence is a factor in determining whether compensation paid to an individual is subject to withholding only when his service is not localized within some state; he performs no service in the state in which he has his base of operations (if he has a base of operations); and he performs no service in the state from which his service is directed or controlled. In such case, if the individual is a resident of this State, and some of his service is performed within this State, his entire compensation will be subject to withholding. However, compensation paid to residents of a state with which Illinois has entered into a reciprocal agreement (see Section 100.7090) is exempt from withholding.

2) Residence is also important in determining the Illinois income tax obligations of certain employees of railroads, motor carriers and air carriers (see Section 100.2590 of this Part and subsection (b) above).

3) Subsection (f)(1) above may be illustrated by the following example:

A is a salesman employed by the B company located in State X. His services are directed and controlled from the State X office and he has no base of operations. A lives in Illinois but his territory includes State Y and State Z as well as Illinois. All of A's wages are subject to withholding because no part of his service is performed in the state (State X) in which the place from which his services are directed is located, but part of his service is performed in Illinois and his residence is in Illinois.

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g) Deferred compensation

1) Under certain contractual unfunded deferred compensation agreements, payments are made by an employer to an employee for service rendered at an earlier date. In many such agreements, the employee receiving deferred compensation payments is not required to render any current service whatsoever, whereas in others he may be required to hold himself available to render advisory and consultative service, if called upon to do so, and to refrain from competition, but in either case, the amount of compensation is unrelated to any service being currently rendered. Payments made under any such deferred compensation agreement will be deemed to meet the tests set forth in subsection (a) above for compensation paid in Illinois if paid to the individual while a resident of this State. Conversely, payments made under such an agreement will be deemed not to be compensation paid in this State and will not be subject to withholding if paid to the individual while a nonresident. Amounts paid to nonresidents under deferred compensation agreements may be allocated to Illinois under IITA Section 302(a) in accordance with Section 100.3120(b)(1) notwithstanding the fact that such amounts will be deemed not to be compensation paid in Illinois for purposes of IITA Section 701 and will not be subject to withholding.

2) Subsection (g)(1) above may be illustrated by the following example:

A is a corporate executive. On January 1, 1965, A entered into an agreement with B corporation under which he was to be employed by B in an executive capacity for a period of 5 years. Under the contract A is entitled to a stated annual salary and to additional compensation to be credited to a bookkeeping reserve account and deferred, accumulated and paid in annual installments of \$5,000 on A's retirement beginning January 1, 1970. In the event of A's death prior to exhaustion of the account, the balance is to be paid to A's personal representative. A is not required to render any service to B after December 31, 1969. During 1970, A is paid \$5,000 while a resident of Illinois. This amount will be subject to withholding, because A's prior service will be deemed to have met one of the tests for compensation paid in Illinois.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 130

3) Section Numbers: Proposed Action:
130.2013 New Section

4) Statutory Authority: 35 ILCS 120

5) A Complete Description of the Subjects and Issues Involved: This rulemaking adds a new Section which codifies the provisions of Informational Bulletin 86-54. The proposed rulemaking sets out the tax liabilities of persons who purchase tangible personal property for the purpose of renting it to others, or of using it themselves. It explains the liabilities that may be incurred when tangible personal property coming off lease is sold. It explains that no Retailers' Occupation Tax liability is incurred if the seller is strictly a lessor whose only sales are of items no longer needed for his rental inventory (these are "occasional sales"), but that Retailers' Occupation Tax liability will be incurred if the lessor is otherwise engaged in the business of selling like-kind property at retail. The regulation then details that for the latter group of sellers, a credit is available against their Retailers' Occupation Tax liability for any Use Tax and local Retailers' Occupation Tax reimbursements that were paid to a supplier registered to collect Illinois tax when the seller purchased that particular item. The regulation further describes this credit and explains how it is taken by the seller. The regulation provides that this credit is available to persons engaged in the business of leasing or renting motor vehicles to others and who sells motor vehicles that are no longer needed in their rental inventories to users or other consumers. The regulation explains that if the seller claiming the credit did not pay Use Tax to an Illinois retailer when purchasing the item being sold, but instead filed a return and paid the Use Tax directly to the Department, the credit is not available. In these cases, a claim for credit must be filed with the Department.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
130.401	Amendment	24 Ill. Reg. 19030, December 29, 2000
130.2075	Amendment	25 Ill. Reg. 6108, May 11, 2001
130.351	Amendment	25 Ill. Reg. 6446, May 18, 2001

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130.2076	New Section	25 Ill. Reg. 6645, May 25, 2001
130.1501	Amendment	25 Ill. Reg. 8116, July 6, 2001
130.1505	Amendment	25 Ill. Reg. 8116, July 6, 2001

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State Mandate, nor does it modify any existing State Mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Jerilynn Gorden
Senior Counsel, Sales & Excise Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The procedures established in this rulemaking affect lessors who also engage in the business of selling items that are of a like-kind nature to those items which they lease.

B) Reporting, bookkeeping or other procedures required for compliance:
No procedures beyond those required at present.

C) Types of professional skills necessary for compliance: Bookkeeping

13) Regulatory Agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

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130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
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SUBPART B: SALE AT RETAIL

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130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
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SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.305	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol
130.321	Fuel Used by Air Common Carriers in International Flights
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.331	Manufacturer's Purchase Credit
130.332	Automatic Vending Machines that Dispense Hot Food or Beverages
130.335	Pollution Control Facilities
130.340	Rolling Stock
130.345	Oil Field Exploration, Drilling and Production Equipment
130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351	Aggregate Manufacturing

SUBPART D: GROSS RECEIPTS

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Section	
130.401	Meaning of Gross Receipts
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ILLUSTRATION A Examples of Tax Exemption Cards

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at

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3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7,

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2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 15, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. _____, effective _____.

SUBPART S: SPECIFIC APPLICATIONS

Section 130.2013 Persons in the Business of Both Renting and Selling Tangible Personal Property - Tax Liabilities, Credita) Purchases of Tangible Personal Property for Rental

Use Tax is due whenever tangible personal property is purchased for use. For Illinois sales tax purposes, lessors of tangible personal property under true leases are deemed to be the users of that property. Consequently, lessors incur a Use Tax liability (and applicable local occupation tax reimbursement obligations) based on their cost price of the items they purchase for rental purposes. See Section 130.2010 of this Part. The only exception is the renter of an automobile under a lease term of one year or less. See 86 Ill. Adm. Code 180.101. (Further references in this Section to "Use Tax" due on a purchase includes the Use Tax and all applicable local occupation tax reimbursement obligations due on that purchase.)

Persons who sell tangible personal property to lessors who will rent or lease that property incur Illinois and local Retailers' Occupation Tax liabilities on their gross receipts from such sales. Consequently, when a lessor purchases tangible personal property for rental purposes, he should pay his Use Tax liability to his supplier. If the lessor does not pay the Use Tax to his supplier, he must self-assess and pay it directly to the Department. Persons who are lessors and whose only selling activity consists of selling items that come off lease and are no longer needed for rental purposes cannot purchase for resale.

If an item is placed in a rental inventory, it has been purchased for rental purposes and Use Tax is due. "Rental inventory" means that the owner, in order to state his intended use of the property as rental property, has recorded the property in his books and records as rental property in accordance with generally accepted accounting principles. Depreciation of property used for rental purposes demonstrates an intent to include that property in rental inventory.

b) Purchases of Tangible Personal Property for Resale

If a retailer purchases tangible personal property for resale, no tax

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is due on that transaction so long as all of the requirements of Section 130.1405 of this Part are satisfied. If an item is purchased for resale and placed in a sales inventory immediately after it is purchased, the Department will determine that it has been purchased for resale for so long as it remains in the sales inventory. "Sales inventory" means that the owner, in order to demonstrate his intention to resell the property, has recorded the property in his books and records as being for sale in accordance with generally accepted accounting principles.

c) Purchases of Tangible Personal Property by Persons Who Both Rent It and Sell It to Others but Who Do Not Maintain Separate Rental and Sales Inventories

Some persons function as combination lessors/retailers and do not maintain separate rental and sales inventories. These persons purchase tangible personal property to rent to others and also purchase tangible personal property to sell to others without making such property available for rental. The question of whether the combination lessor/retailer, who does not maintain separate sales and rental inventories, incurs a Use Tax liability when purchasing items for his combined inventory depends on whether he is primarily engaged in the business of renting or is primarily engaged in the business of selling. In order to make that determination, the Department will look to this lessor/retailer's gross receipts.

1) If the gross receipts from Illinois locations are primarily from rentals, the combination lessor/retailer who does not maintain separate rental and sales inventories is primarily a lessor who incurs a Use Tax liability on items purchased for rental purposes and a Retailers' Occupation Tax liability on all items sold at retail. This combination lessor/retailer can give suppliers certificates of resale, but only for items that will be resold without being rented. If the lessor/retailer knows, at the time of purchase, that a percentage of the items being purchased will be resold without being rented, he may give his supplier a certificate of resale specifying the percentage of items that will be resold without being rented and pay tax only on those items that will be rented before they are sold. The combination lessor/retailer who does not maintain separate rental and sales inventories and who is primarily a lessor incurs a Use Tax liability on all items that are rented before they are sold.

2) If the gross receipts from Illinois locations are primarily from sales, including sales of items coming off lease and sales of items encumbered by leases, the combination lessor/retailer who does not maintain separate inventories is primarily a retailer. This combination lessor/retailer can purchase his entire inventory tax-free by providing certificates of resale to his suppliers. He may use items for rental purposes without incurring a Use Tax liability if the items are used in demonstrations to potential buyers or are put to some other

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interim use. See 86 Ill. Adm. Code 150.306.

d) Persons Who Have Not Paid Tax on Tangible Personal Property that They Have Purchased for Rental Purposes--Paying Taxes Owed

Persons who have not paid Use Tax on items of tangible personal property that they have used for rental purposes must check their records to find out when they made the purchases on which they still owe Use Tax. If, for example, items that were purchased tax-free under the percentage certificate of resale described in subsection (c)(1) were rented before they were resold, tax is due on those items. A return for each liability period for which taxes are owed must be completed and filed with the Department. If a return was filed for a period for which additional tax is due, then an amended return for that period must be completed and filed with the Department. Returns must include taxable amounts that were not reported for the periods in question and must include applicable penalty and interest.

e) Sales of Items Coming Off Lease That Are No Longer Needed in a Rental Inventory

The question of whether a lessor's sale of tangible personal property coming off lease that is no longer needed for the lessor's rental inventory is subject to Retailers' Occupation Tax liability depends on whether the seller is strictly a lessor, or whether the seller is otherwise engaged in the business of selling like-kind property.

1) A person who is strictly a lessor and whose only sales are of items no longer needed for his rental inventory does not incur Retailers' Occupation Tax liability on those sales.

A) For example, a lessor of computer equipment who does not maintain a sales inventory of computer equipment and who does not otherwise hold himself out as being in the business of selling like-kind property, incurs no Retailers' Occupation Tax liability on sales of computer equipment that he no longer wants in his rental inventory. This would be true even though the lessor advertised such sales and was required to make a considerable number of such sales over time. As long as all of the sales are of equipment no longer needed for the lessor's rental inventory, they constitute non-taxable isolated or occasional sales. See Section 130.110 of this Part.

2) However, the rule is different if the lessor is otherwise engaged in the business of selling like-kind property at retail. A lessor of tangible personal property who sells like-kind property apart from his sale of items no longer needed for his rental inventory incurs Retailers' Occupation Tax liability on all retail sales of that property, including sales of items no longer needed for his rental inventory. This is true because a person who is engaged in the business of selling tangible personal property cannot make an isolated or occasional sale of like-kind tangible personal property.

A) For example, a lessor of computer equipment who also

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maintains a sales inventory of computer equipment incurs Retailers' Occupation Tax liability whenever he makes retail sales of computer equipment, including sales of computer equipment no longer needed in his rental inventory. The result would be the same even if the lessor/seller did not maintain a separate sales inventory, as such, but offered computer equipment for sale apart from items coming off lease that are no longer needed for his rental inventory. This would be the case where the lessor advertised or otherwise held himself out as a supplier of computer equipment apart from the items coming off lease and no longer needed for his rental inventory. In this situation, the lessor/seller would incur a Retailers' Occupation Tax liability on all his sales of computer equipment for use or consumption and must collect the complementary Use Tax from his customers.

3) The rule is also different with respect to the sale of used motor vehicles by leasing and rental companies. A person who is engaged in the business of leasing or renting motor vehicles to others and who sells a motor vehicle that is no longer needed in his rental inventory to a user or consumer incurs a Retailers' Occupation Tax liability on that sale. See Section 130.111 of this Part. In this context, a "motor vehicle" means a passenger car defined in Section 1-157 of the Illinois Vehicle Code as a motor vehicle of the First Division including a multipurpose passenger vehicle that is designed for carrying not more than 10 persons. [625 ILCS 5/1-157]

f) Transfers of Tangible Personal Property from a Sales Inventory to a Rental Inventory and Vice Versa by Persons Who Both Rent and Sell that Tangible Personal Property to Others

1) If an item is moved from a sales inventory to a rental inventory, Use Tax is due based on the cost price of that item. In this situation, the Use Tax must be self-assessed and paid on a return filed for the month in which the item was moved to the rental inventory.

2) If an item is moved from a rental inventory to a sales inventory, Retailers' Occupation Tax is due on the gross receipts from sale when the item is sold to a user or consumer. In this situation, the lessor/seller would collect the complementary Use Tax from the purchaser. However, a credit, as provided in subsection (h), may be available for Use Tax and local Retailers' Occupation Tax reimbursements paid to an Illinois supplier when the item was purchased for the rental inventory.

g) Receipts from the Rental of Tangible Personal Property
Receipts from the rental of tangible personal property under a true lease are not subject to Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2010. However, receipts from the rental of automobiles under lease terms of one year or less are subject to

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automobile renting occupation tax liability. See 86 Ill. Adm. Code 180.

h) Persons Who Sell Tangible Personal Property After Using It for Rental Purposes

1) As is set out in subsection (e)(1):

A) A lessor whose only sales are sales of items coming off lease that are no longer needed for his rental inventory incurs no Retailers' Occupation Tax liability on those sales.

B) Lessors who are otherwise engaged in the business of selling like-kind property incur Retailers' Occupation Tax liability on all their sales, including sales of items coming off lease that are no longer needed for their rental inventories.

C) Lessors and renters of automobiles incur Retailers' Occupation Tax liability when they make retail sales of passenger cars coming off lease that are no longer needed for their rental inventories.

2) A lessor who incurs a Retailers' Occupation Tax liability on the sale of an item can take a credit against that liability for any Use Tax and any local Retailers' Occupation Tax reimbursements that he paid to a supplier registered to collect Illinois tax when he purchased that particular item. However, this credit cannot exceed the amount of Retailers' Occupation Tax incurred by the lessor/retailer when he sells the item.

3) The credit is available to all lessors who are required to pay Retailers' Occupation Tax when selling an item after having used that item for rental purposes, including lessors of motor vehicles. The credit is available to all lessors (and renters) of motor vehicles who incur Retailers' Occupation Tax liability on sales so long as Use Tax was paid to an Illinois retailer when the lessor (or renter) purchased the particular motor vehicle being sold. If the lessor (or renter) did not pay Use Tax to an Illinois dealer when he purchased the motor vehicle being sold but, instead, filed a return and paid the tax directly to the Department, the credit is not available and it must not be taken. (If the lessor filed a return and paid the tax directly to the Department, the lessor must file a claim to recover it. See 86 Ill. Adm. Code Subpart O.)

4) There is no credit available for taxes paid by a renter under the Automobile Renting Occupation and Use Tax Act [35 ILCS 155].

i) Documentation to Support the Credit

When the credit described at subsection (h) is claimed, the lessor/seller must retain documentation demonstrating that Use Tax was paid to a supplier registered to collect Illinois tax when he purchased the item being sold and in what amount. A paid receipt from the supplier for the item on which the credit is being claimed showing the amount of Use Tax paid as a separate item is sufficient to

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document the credit for all items other than motor vehicles. For motor vehicles, the credit is to be documented by a copy of the transaction reporting return (Form ST-556) filed by the Illinois dealer from whom the lessor purchased the motor vehicle. That transaction reporting return (Form ST-556) will show the amount of Use Tax that the lessor paid to the Illinois dealer. If the lessor paid Use Tax to the Department by filing a Motor Vehicle Use Tax Return (RUT-50) when the vehicle was purchased, the credit is not available and must not be taken. (In this situation, the lessor would have to file a Claim for Credit to recover the Use Tax. See Subpart O of this Part.)

(Source: Added at 25 Ill. Reg. _____, effective _____)

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Selection of Architects/Engineers (A/E)
- 2) Code Citation: 44 Ill. Adm. Code 1000
- 3) Section Numbers: 1000.170
Adopted Action: Amended
- 4) Statutory Authority: Implementing the Capital Development Board Act [20 ILCS 3105] and authorized by Sections 9.06 and 16 of that Act, Article 30 and Section 1-15.25 of the Illinois Procurement Code [30 ILCS 500/Art. 30 and 1-15.25] and Section 20 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535/20].
- 5) Effective Date of Rulemaking: August 10, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: June 1, 2001; 25 Ill. Reg. 6806.
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: In Section 1000.170, changed "Illinois Law" to "the Architectural Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535] and the Local Government Professional Services Selection Act [50 ILCS 5101]".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: To ensure that entities making selection recommendations to the Board comply with the two cited statutes.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Claire Gibson, Deputy Chief Counsel

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED AMENDMENTS

Capital Development Board
3rd Floor, Wm. G. Stratton Bldg.
Springfield, Illinois 62706
217-782-1392

The full text of the adopted amendment begins on the next page:

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XII: CAPITAL DEVELOPMENT BOARD

PART 1000

SELECTION OF ARCHITECTS/ENGINEERS (A/E)

Section	
1000.100	Definitions
1000.110	Purpose
1000.120	Selection Procedures
1000.130	Selection Committee
1000.140	Evaluation Procedures
1000.150	Preliminary Evaluations
1000.160	Interviews
1000.170	Delegation of Evaluations
1000.180	Public Notice
1000.190	Submittal Requirements
1000.200	Small Projects
1000.210	Emergency Projects

AUTHORITY: Implementing the Capital Development Board Act [20 ILCS 3105] and authorized by Sections 9.06 and 16 of that Act, Article 30 and Section 1-15.25 of the Illinois Procurement Code [30 ILCS 500/Art. 30 and 1-15.25] and Section 20 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535/20].

SOURCE: Adopted at 2 Ill. Reg. 30, p. 140, effective July 27, 1978; amended at 4 Ill. Reg. 9, p. 233, effective February 14, 1980; amended at 5 Ill. Reg. 1890, effective February 17, 1981; amended and codified at 8 Ill. Reg. 20332, effective October 1, 1984; amended at 9 Ill. Reg. 17338, effective October 29, 1985; amended at 12 Ill. Reg. 17815, effective October 25, 1988; Part repealed, new Part adopted at 22 Ill. Reg. 1176, effective January 1, 1998; amended at 24 Ill. Reg. 11618, effective July 24, 2000; amended at 25 Ill. Reg. 11774, effective AUG 10 2001.

Section 1000.170 Delegation of Evaluations

CDB may delegate the evaluation of prospective A/Es to the user agency (school district, college, university, Illinois Community College Board or unit of local government). The user agency shall be required to comply with the Architectural, Engineering, and Land Surveying Qualification Based Selection Act [30 ILCS 535] or the Local Government Professional Services Selection Act [50 ILCS 510], as may be applicable. Recommendations pursuant to 30 ILCS 535 for contracts of \$25,000 or more shall state the three selected firms ranked in order of qualifications. Recommendations pursuant to 50 ILCS 510 for contracts of \$25,000 or more shall state the three selected firms ranked in order of qualifications unless the selection is stated to be an exception under 50 ILCS

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510/5. CDB or the user may request that a member of its staff be a voting or nonvoting member of the user agency's evaluation committee. The user agency shall transmit its recommendations to CDB for review and approval of the Board. CDB will provide a form for submitting the recommendations. Transmittal to CDB shall include a letter with a certification statement requiring an authorized signature verifying that the selections were made in accordance with the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535] and the Local Government Professional Services Selection Act [50 ILCS 510]. CDB may request the user agency make other recommendations if the firm(s) recommended are not acceptable to CDB.

(Source: Amended at 25 Ill. Reg. 1177.4, effective
Aug 10 2001)

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- 1) Heading of the Part: Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible
- 2) Code of Citation: 89 Ill. Adm. Code 309
- 3) Section Numbers: 309.20
Adopted Action: Amendment
- 4) Statutory Authority: The Children and Family Services Act [20 ILCS 505] and the Adoption Act [750 ILCS 50]
- 5) Effective Date of Amendments: September 14, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 27, 2000 at 24 Ill. Reg. 17394
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between proposal and final version: Other than editing and formatting corrections, no differences are found.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The Department is amending Part 309 as follows:

On October 16, 1998, the Department submitted a Notice of Proposed Amendments to the Secretary of State's Administrative Code Unit with proposed amendments to 89 Ill. Adm. Code 309, Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible. Included in the Notice were amendments to Section 309.20, Definitions. In the definition of "best interest", the Department deleted the word "racial". The version appearing in the Illinois Register, however, retained the word which subsequently went undetected

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throughout the entire rulemaking process, including final adoption and publication of the rule, effective September 15, 1999.

The Department is now adopting changes to correct that oversight by deleting the word "racial" from the definition of "best interests". In addition, the Department is deleting the word "cultural" from the same definition. This action is being taken at the request of the Federal Office for Civil Rights which believes that the words could lead to violations of the Multi-ethnic Placement Act and Section 1808, Removal of Barriers to Inter-ethnic Adoption provisions of the Small Business Protection Act of 1996. The Office for Civil Rights has expressed concern that the use of culture in making child placement decisions could serve as a method of circumventing the prohibition against using race, color, or national origin in such decisions.

16) Information and questions regarding this adopted amendment shall be directed to:

Mr. Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 East Monroe Street, Station #65D
Springfield, Illinois 62703-1498
Telephone: (217) 524-1983
TDD: (217) 524-3715
E-Mail: cfpolicy@idcfs.state.il.us

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 309

ADOPTION SERVICES FOR CHILDREN FOR WHOM THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES IS LEGALLY RESPONSIBLE

Section	Purpose
309.10	Definitions
309.20	Recruitment of Adoptive Families
309.30	Adoption Listing Services
309.40	Identification of Children for Potential Adoption Planning
309.50	Legal Risk Placements
309.60	Freeing Children for Adoption
309.70	Termination of Parental Rights
309.80	Putative Father Registry
309.90	Preparation of Children for Adoption
309.100	Preparation and Training of Adoptive Families
309.110	Preparation of the Child's Biological Parents
309.120	Placement Considerations
309.130	Placement of Children with Adoptive Families
309.140	Providing Information to Adoptive Families
309.150	Post-Placement Services
309.160	Post-Adoption Services
309.170	Adoption Assistance
309.180	Adoption Registry
309.190	

AUTHORITY: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5] and the Adoption Act [750 ILCS 50]; implementing the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Adoption and Safe Families Act (42 USCA 1305).

SOURCE: Adopted at 22 Ill. Reg. 8769, effective May 15, 1998; amended at 25 Ill. Reg. 1178, effective SEP 14 2001.

Section 309.20 Definitions

"Adoption assistance" or "adoption subsidy" means financial assistance and other services from the Department which are provided to the adoptive parents after the finalization of an adoption of a child with special needs as defined in Section 309.180.

"Adoption placement" means a living arrangement with a family which is directed toward establishing that family as the child's new legal parents.

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"Adoption triad" means the adoptive family, the adoptee (child being adopted) and the biological family.

"Adult" means a person who has attained the age of 18.

"Attachment" means the lasting psychological tie between two people who have significance for each other that endures through space and time and serves to join them emotionally.

"Best interests" as defined in the Juvenile Court Act of 1987 means consideration of the following factors in the context of the child's age and developmental needs:

the physical safety and welfare of the child, including food, shelter, health, and clothing;

the development of the child's identity;

the child's background and ties, including familial, cultural, and religious;

the child's sense of attachments, including:

where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and sense of being valued);

the child's sense of security;

the child's sense of familiarity;

continuity of affection for the child;

the least disruptive placement alternative for the child;

the child's wishes and long-term goals;

the child's community ties, including church, school, and friends;

permanence for the child;

the uniqueness of every family and child;

the risks attendant to entering and being in substitute care; and

the preferences of the persons available to care for the child.

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[705 ILCS 405/1-3]

"Certification training" means training directed toward preparing a family to adopt a child for whom the Department of Children and Family Services is legally responsible and may consist of the following different types of training:

six hours of training for foster care conversion adoptions which means that a foster parent or relative caregiver is adopting a child who has been in his or her care; or

six hour of standardized training and an additional individualized training plan specific to the child's needs for adoptive parents who have not had the child in their care prior to the adoptive placement; or

training specified by private child welfare agencies who meet the standards of the Council on Accreditation of Services for Families and Children.

"Children for whom the Department of Children and Family Services is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Confidential intermediary" is an individual appointed by the court for the purpose of obtaining from biological parents or siblings of an adopted person information concerning the background of a psychological or genetically-based medical problem experienced or which may be experienced by the adopted person or obtaining assistance in treating such a problem. [750 ILCS 50/18.3a] A confidential intermediary is obliged by law to protect the identity and privacy of the biological family as well as that of the adoptive family and adopted person.

"Consent to adoption by a specified person" is a voluntary act by the parents to relinquish all parental rights of a child to a person or persons specified by the parents in the specific consent document. Consent to adoption by a specified person is further described in Section 309.70 (Freeing Children for Adoption).

"Internal legal screening" means an internal review required by the Department prior to referring a case for termination of parental rights for the purpose of freeing a child for adoption. Depending on local practice, a representative of the State's Attorney's Office may participate in the screening. The purpose of the screening is to determine whether sufficient grounds for termination of parental

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rights exist and whether adoption is in the best interest of the child. Legal screening is further described in Section 309.90.

"Legal risk placement" means the placement with a family of a child, not yet legally free for adoption, made in the best interests of the child with the intent that the family will become an adoptive resource for the child should the child become legally free for adoption.

"Parental unfitness" means a finding by the court that a person is unfit to parent a child, without regard to the likelihood that the child will be placed for adoption. The grounds of unfitness are described in Section 309.50 (Identification of Children for Potential Adoption) and in the Adoption Act [750 ILCS 50].

"Persons approved for adoption" means persons who have been licensed as a foster family home in accordance with 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes) or relative caregivers with whom children have been placed in accordance with 89 Ill. Adm. Code 301 (Placement and Visitation Services) and who also meet the certification requirements of Section 309.110(c) of this Part.

"Post-adoption services" are services meant to assist and support the family in maintaining itself in a healthy and nurturing environment and in preserving the adoption. Post-adoption services may include, but are not limited to, social, psychological, psychiatric, health, educational and adoption preservation services. Financial services are available to families and adoptees following the legal consummation of the adoption, when they are eligible for adoption assistance. Post-adoption services also address the needs of adult adoptees and their biological families to seek information and contact, when desired.

"Putative father" means a male, regardless of age, who may be a child's father, but who was not married to the child's mother on or before the date that the child was or is to be born and for whom paternity of the child has not been established in a court proceeding.

"Surrender for adoption" is a voluntary act by the parents to relinquish all parental rights of a child to an agency for the purpose of placing the child for adoption.

"Termination of parental rights" is a legal action of the court or a voluntary action by the parents which relieves the birth parents of a child of all parental responsibility for the child and deprives them of all legal rights with respect to the child.

(Source: Amended at 25 Ill. Reg. 11778, effective

SEP 14 2001

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Permanency Planning
- 2) Code Citation: 89 Ill. Adm. Code 315
- 3) Section Numbers:

<u>Adopted Action:</u>
315.20 Amendment
315.30 Amendment
315.70 Amendment
315.100 Amendment
315.120 Amendment
315.130 Amendment
- 4) Statutory Authority: 20 ILCS 505; 705 ILCS 405; 325 ILCS 5; 750 ILCS 50
- 5) Effective Date of Amendments: September 14, 2001
- 6) Does this rulemaking contain and automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 27, 2001 at 24 Ill. Reg. 17401
- 10) Has JCARE issued a Statement of Objections to these amendments? No
- 11) Differences between proposal and final version: Other than editing and formatting corrections, no differences are found.
- 12) Have all the changes agreed upon by the agency and JCARE been made as indicated in the agreements issued by JCARE? Yes
- 13) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The Department is amending Part 315 as follows:

In Sections 315.20 and 315.30, the Department deleted the word "cultural" from the definition of "Best interest of the child" and the factors to be considered in evaluating the best interests of the child. This action was taken at the request of the Federal Office for Civil Rights which believed that the word could lead to violations of the Multi-ethnic Placement Act

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- and Section 1808, Removal of Barriers to Inter-ethnic Adoption provisions of the Small Business Job Protection Act of 1996. The Office for Civil Rights had expressed concern that the use of culture in making child placement decisions could serve as a method of circumventing the prohibition against using race, color, or national origin in such decisions.
- In Section 315.70, the Department added the decision of whether to release foster parent/relative caregiver identifying information to the list of critical decisions. In Section 315.100, language was added to require the comprehensive assessment include an assessment of whether foster parent/relative caregiver identifying information should be released and a listing of circumstances under which the information should not be released.
- In Sections 315.120 and 315.130, language was added regarding the release of foster parent/relative caregiver identifying information when planning family meetings and developing the service plan.
- 15) Information and questions regarding these adopted amendments shall be directed to:

Mr. Jeff E. Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62703-1498
Telephone: (217) 524-1983
TDD: (217) 524-3715
E-Mail: cfpolicy@idcfs.state.il.us
- The full text of the adopted amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERYPART 315
PERMANENCY PLANNING

SUBPART A: PRINCIPLES OF PERMANENCY PLANNING

Section
315.10 Purpose
315.20 Definitions
315.30 Best Interests, Health and Safety of the Child
315.40 Accountability
315.45 The Need for a Permanent Home
315.50 Reasonable Efforts/Reasonable Progress
315.60 The Child's Sense of Time
315.70 The Critical Decisions
315.80 Components of the Permanency Planning Process

SUBPART B: ASSESSMENT AND OTHER CASEWORK ACTIVITIES

Section
315.100 Assessment
315.110 Worker Interventions and Contacts
315.120 Family Meetings
315.130 Developing the Service Plan
315.140 Distributing the Service Plan
315.150 Revising the Service Plan
315.160 Case Reviews and Court Hearings

SUBPART C: SELECTING THE PERMANENCY GOAL

Section
315.200 Selection of the Permanency Goal
315.205 Return Home Within Five Months
315.210 Return Home Within One Year
315.215 Return Home Pending Status Hearing
315.220 Substitute Care Pending Court Determination on Termination of Parental Rights
315.225 Adoption
315.230 Guardianship
315.235 Independence
315.240 Cannot Be Provided for in a Home Environment
315.245 Concurrent Planning
315.250 Applicability of Reunification Services

SUBPART D: EVALUATION AND DECISIONMAKING

Section
315.300 Evaluating Whether Children in Placement Should Be Returned Home

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315.305 When Reunification Is Inappropriate
315.310 Termination of Services and Planning for Aftercare

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505], the Abused and Neglected Child Reporting Act [325 ILCS 5], the Adoption Assistance and Child Welfare Act of 1980, amending Section 475 of the Social Security Act (42 USCA 670 et seq.), the Juvenile Court Act of 1987 [705 ILCS 405], and the Adoption Act [750 ILCS 50].

SOURCE: Adopted at 23 Ill. Reg. 2539, effective February 1, 1999; amended at 25 Ill. Reg. 11785, effective SEP 14 2001.

SUBPART A: PRINCIPLES OF PERMANENCY PLANNING

Section 315.20 Definitions

"Administrative case review" means a review of permanency planning open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subjects of the review (pursuant to Section 475 of the Social Security Act [42 USCA 675]). The administrative case review is also open to the participation of other professionals involved in assessing or treating the child, any legal representative of the parent or child, and the foster parents as specified in Section 316.60 (Administrative Case Reviews) of 89 Ill. Adm. Code 316 (Case Reviews, Court Hearings and Permanency Hearings).

"Best interest of the child" has been defined by law to include the following factors:

the physical safety and welfare of the child, including food, shelter, health, and clothing;

the development of the child's identity;

the child's background and ties, including familial, ~~cultural~~, and religious;

the child's sense of attachments, including:

where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);

the child's sense of security;

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the child's sense of familiarity;
continuity of affection for the child;
the least disruptive placement alternative for the child;
the child's wishes and long-term goals;
the child's community ties, including church, school, and friends;
the child's need for permanence, which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;
the uniqueness of every family and child;
the risks attendant to entering and being in substitute care; and
the preferences of the persons available to care for the child.
[705 ILCS 405/1-3]

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Client service plan" means a written plan on a form prescribed by the Department that guides all participants in the plan of intervention toward the permanency goals for the children.

"Concurrent planning" means a process whereby the Department or its service provider works toward family reunification with a family whose children has been removed from the home while, at the same time, developing an alternative plan, if reunification with the family cannot be attained.

"Family" means one or more adults and children, related by blood, marriage or adoption and residing in the same household.

"Father" means a man presumed to be the natural father of a child if:

he and the child's natural mother are or have been married to each other, even though the marriage is or could be declared invalid, and the child is born or conceived during such marriage;

after the child's birth, he and the child's natural mother have

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married each other, even though the marriage is or could be declared invalid, and he is named, with his consent, as the child's father on the child's birth certificate pursuant to Section 12 of the Vital Records Act;

he and the natural mother have signed an acknowledgment of paternity in accordance with 89 Ill. Adm. Code 160 (Child Support Enforcement) ~~rules-adopted-by-the-Illinois-Department-of--Public Aid-under-Section-10-17-7-of-the-Illinois-Public-Aid-Code;~~

he and the child's mother have signed a petition to establish the parent and child relationship by consent of the parties in accordance with Section 6 of the Illinois Parentage this Act of 1984.

A man can rebut a presumption of paternity before a court of jurisdiction. [750 ILCS 45/5]. Father also means a man who adopts a child or has been determined by court or administrative adjudication to be the child's father.

"Guardian" means an individual person appointed by the court to assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5/Art. XI].

"Individual Treatment Plan (ITP)" or "Treatment Plan" as defined in 59 Ill. Adm. Code 132 (Medicaid Community Mental Health Services) means a written document developed by the appropriate service provider staff with the participation of the client with a mental illness and, if applicable, the client's guardian, which specifies the client's diagnosis, problems, and service needs to be addressed, the intermediate objectives and long-term goals for the services and the planned interventions for achieving these goals.

"Individualized Education Plan/Program (IEP)" means the document prepared by the local school district, as a result of a Multi-disciplinary Conference, that identifies the specific special education services that will be provided to the child. The IEP also includes education goals, services, frequency, quantity and duration. IEP is further defined in 23 Ill. Adm. Code 226 (Special Education).

"Individualized Family Service Plan (IFSP)" means a written working document developed for each child in order to facilitate the provisions of Early Intervention (EI) services. The IFSP is created by the family, an inter-disciplinary team, the core EI agency, and the case manager (service coordinator). The EI agency is responsible for coordinating the IFSP implementation.

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"Minimum parenting standards" means that a parent or other person responsible for the child's welfare is able and willing to ensure that a child is healthy and safe, which includes ensuring that the child is adequately fed, clothed appropriately for the weather conditions, provided with adequate shelter, protected from physical, mental and emotional harm, and provided with necessary medical care and education required by law.

"Parents" means the child's legal parents whose rights have not been terminated and adoptive parents. Biological fathers are considered legal parents when paternity has been established as required by the definition in this Section.

"Permanency goal" means the desired outcome of intervention and service, which is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

"Permanent legal status" means a legally binding relationship between a child and a family as established by birth or by a court of law.

"Rehabilitative services plan" means a written plan developed in accordance with 59 Ill. Adm. Code 132.155 (Medicaid Community Mental Health Services), which includes identification of the problems to be addressed, the rehabilitative services to be provided and the outcomes to be achieved for eligible clients served by the Department pursuant to the Abused and Neglected Child Reporting Act, the Children and Family Services Act or the Juvenile Court Act of 1987.

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, great-uncle, or great-aunt, or
is the spouse of such a relative, or
is the child's step-father, step-mother, or adult step-brother or step-sister through a current marriage.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

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"Service termination planning" means service planning that starts with the first contact with the family and which focuses on providing a smooth transition from Department guardianship or custody. It includes the receipt of child welfare services to discharge from guardianship or custody and the termination of Department funded services.

"Substitute care" means the care of children who require placement away from their families or private guardians. Substitute care includes foster family care, care provided in a relative home placement as defined in 89 Ill. Adm. Code 301 (Placement and Visitation Services), Section 301.80 (Relative Home Placement), care provided in a group home, care provided in a maternity center or a child care, mental health or other institution, and care provided in an independent living arrangement.

"Termination of parental rights" means a court order that relieves the legal parents of parental responsibility for the child and revokes all legal rights with respect to the child. The termination order also frees the child from all obligations of maintenance and obedience with respect to the legal parents.

(Source: Amended at 25 Ill. Reg. 11785, effective SEP 14 2001)

Section 315.30 Best Interests, Health and Safety of the Child

a) Best Interests, Health and Safety of the Child
Permanency planning is an on-going process that first and foremost must consider the best interests, health and safety of the child in all planning decisions. Health and safety are the paramount factors that must be considered when determining the best interests of the child. This means that a child is or will be in a living arrangement that meets the placement selection criteria contained in 89 Ill. Adm. Code 301 (Placement and Visitation Services), and that protects the child's physical health and safety and promotes the child's emotional, medical, and developmental well-being. When evaluating the best interests of the child, the Department or its purchase of service provider shall consider the following factors as provided in the Juvenile Court Act:

- 1) the physical safety and welfare of the child, including food, shelter, health, and clothing;
- 2) the development of the child's identity;
- 3) the child's background and ties, including familial, cultural, and religious, including the primary method and/or language of communication between the child and the biological parents or any other special communication needs;
- 4) the child's sense of attachments, including:
 - A) where the child actually feels love, attachment, and a sense

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of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);

- B) the child's sense of security;
- C) the child's sense of familiarity;
- D) continuity of affection for the child;
- E) the least disruptive placement alternative for the child;
- 5) the child's wishes and long-term goals;
- 6) the child's community ties, including church, school, and friends;
- 7) the child's need for permanence, which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;
- 8) the uniqueness of every family and child;
- 9) the risks attendant to entering and being in substitute care; and
- 10) the preferences of the persons available to care for the child.

[705 ILCS 405/1-3].

b) The child's best interests and health and safety must be considered and documented throughout service intervention and during, but not limited to, the following activities:

- 1) investigation of allegations of abuse or neglect,
- 2) completion of safety and risk assessments,
- 3) completion of the comprehensive assessment,
- 4) worker/client contacts,
- 5) service planning,
- 6) permanency goal selection,
- 7) family meetings,
- 8) administrative case reviews,
- 9) legal screenings, and
- 10) permanency hearings and other court proceedings.

(Source: Amended at 25 Ill. Reg. 11785, effective SEP 14 2001)

Section 315.70 The Critical Decisions

Although all Department decisions affecting children and families are important, the Department identifies the following decisions, which require approval of the casework supervisor, as the most critical ones affecting children and families:

- a) deciding whether services can prevent placement away from parents or primary parent figure or deciding whether to remove children from the home of parents or primary parent figure;
- b) deciding whether to recommend the return of children to the home of parents or primary parent figure from a placement away from parents or primary parent figure;
- c) deciding whether to decrease the frequency or the duration of parent and/or sibling visits with the child and whether the visits should be

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supervised;

- d) deciding whether to release the name, address, and telephone number of the foster parent/relative caregiver to the parent and/or siblings placed apart;
- e) deciding whether to change children's placements;
- f) deciding whether to seek termination of parental rights and seek an alternate permanent home;
- g) deciding if children are prepared for partial or total independence; or
- h) deciding whether children shall be placed apart from siblings who are also placed in substitute care.

(Source: Amended at 25 Ill. Reg. 11785, effective SEP 14 2001)

SUBPART B: ASSESSMENT AND OTHER CASEWORK ACTIVITIES

Section 315.100 Assessment

Assessment consists of an initial assessment of a child and family to determine whether a case should be opened and services delivered, a comprehensive assessment to determine the needs of the family to provide the appropriate intervention and services, and an ongoing assessment conducted throughout the duration of time that the children and family are receiving services. Initial assessment provides a baseline of family strengths and needs by which a caseworker and supervisor can evaluate subsequent progress.

a) Initial Assessment

The initial assessment consists of a preliminary assessment prior to case opening in order to:

- 1) assess the health and safety of the children to determine whether the child can safely remain in his or her current living arrangement;
- 2) identify the level of risk of harm to the children in the family, develop and implement a safety plan (if at any time the aggravating circumstances appropriate for expedited termination of parental rights exist, the worker shall immediately follow the instructions for expedited termination of parental rights contained in 89 Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible));
- 3) identify what interventions and services can be provided to address the causes of abuse and neglect, and assure a child's health and safety without placement;
- 4) identify any needs of an emergency nature, including food, shelter, and clothing;
- 5) begin to identify and preliminarily select placement resources that meet the placement selection criteria contained in 89 Ill. Adm. Code 301 (Placement and Visitation Services); and

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- 6) identify any special communication needs the child may have, in addition to identifying the communication needs specified by the child's parents and/or legal guardians.

b) Comprehensive Assessment

The comprehensive assessment is an assessment completed no later than 30 calendar days following case referral or case opening. During the comprehensive assessment period the worker shall conduct at least weekly face-to-face visits with the parent and any children remaining in the custody of the parent. When the parent cannot be located, a diligent search shall be made to locate the parent, as required by 89 Ill. Adm. Code 332 (Diligent Searches Conducted by the Department of Children and Family Services), and the parent's portion of the comprehensive assessment shall be completed within 30 days after the parent is located.

- 1) The comprehensive assessment shall consist of any part of the initial assessment that has not yet been completed and the following tasks:

- A) completion of a social history of the child and family to determine the strengths and needs of the family;
 - B) continued assessment of the health and safety and level of risk to the children in the family (if at any time the aggravating circumstances appropriate for expedited termination of parental rights exist, the worker shall immediately follow the instructions for expedited termination of parental rights.);
 - C) assessment of the parents as it relates to their ability to care for the child, including referral for diagnostic-mental health and substance abuse assessment, when indicated;
 - D) for children for whom the Department has legal responsibility, the comprehensive assessment shall also include:
 - i) a compilation of the medical and immunization history of the child and, where available, relevant medical history of the child's parents;
 - ii) location of missing or non-custodial parents and other relatives and their relationship to the family;
 - iii) a preliminary, age appropriate substance abuse screening of the child, if indicated by any other component of the assessment;
 - iv) a basic educational screening including identification of the child's current school and grade level, educational history, and identification of any educational goals and needs, including the need for any further educational testing or assessments.
- 2) In addition, for those children, who are placed in substitute care, the comprehensive assessment shall also include:
- A) an initial health screening by a qualified medical provider in accordance with EPSDT standards, within 24 hours after

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placing the child in protective custody, of sufficient scope to permit the Department or purchase of service agency to ascertain enough about the current health of the child to identify:

- i) any health needs requiring immediate attention; and
- ii) any health information needed to make an informed placement decision;

- B) a comprehensive health screen within 21 days after a child's placement in foster care that includes a physical, dental and mental health status of all children and a developmental screening on all children not yet of school age conducted by medical personnel and followed by more intensive evaluation as indicated or recommended. All children taken into Department custody are to be enrolled in Health Works within the first 21 days after the Department assumes custody.

- 3) For those children in foster or relative care, the comprehensive assessment shall include an assessment of whether the foster parent/relative caregiver identifying information shall be released to the parent. Identifying information of the foster parent/relative caregiver shall not be released to the child's parents or siblings in the care of their parents when any of the following is found in the assessment of the parent or other adult living in the home:

- A) A check of the Law Enforcement Agencies Data System (LEADS) identifies a conviction for any of the crimes listed in Appendix A(a)(1), (3), or (4) of 89 Ill. Adm. Code 301 (Placement and Visitation Services); or
- B) The parent or other adult living in the home has threatened violence against a foster parent/relative caregiver or Department or purchase of service agency worker; or
- C) The parent or other adult living in the home has exhibited violence against a foster parent/relative caregiver or Department or purchase of service agency worker in the past; or
- D) The parent or other adult living in the home has or has threatened to abduct or harm the child.

- c) Ongoing Assessment

Ongoing assessment continues throughout the life of the case until service termination and shall be used to guide the Department or purchase of service agency in developing an appropriate case plan and guide decisionmaking concerning the Department's or purchase of service agency's reasonable efforts and the client's reasonable progress to correct conditions and/or behavior that threaten a child's health and safety. The ongoing assessment shall consist of reassessing safety and risk and the reapplication of any additional screenings as described in subsection (b) whenever the facts of the case indicate the need, until termination of services.

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(Source: Amended at 25 Ill. Reg. 11785, effective SEP 14 2001)

Section 315.120 Family Meetings

Family meetings are a tool intended to engage the family in the planning process. Therefore, caseworkers shall make intensive efforts to persuade and encourage parents to attend the family meetings, especially during the first 90 days, by explaining to them the importance of the family meeting and of attending and cooperating with the process. Casework staff should make every effort when planning family meetings to be flexible and attempt as much as possible to schedule meetings at a time and place where parents can attend, preferably in the parent's home. Staff shall take into consideration parents' work schedules, transportation issues, availability of interpreters (if the parents' primary language of communication is other than English), and any other barriers that might prevent parents from participating. Parents shall be reminded of the court admonishment to cooperate with the Department and that refusal or chronic failure to attend family meetings may be considered by the Department and the court as a lack of reasonable progress. After reaching agreement with the parents on the date, time, location, and participants of the family meeting, the caseworker shall send a confirmation letter to the parents. Caseworkers shall document in the case file all attempts to include parents in the family meetings. Failure to attend family meetings shall also be documented in the case file.

a) Initial Family Meeting

- 1) The initial family meeting must occur within 30 days after the temporary custody hearing and includes at a minimum:
 - A) the caseworker;
 - B) the child's custodial parents;
 - C) the non-custodial parent with the following conditions:
 - i) the non-custodial parent intends to seek custody of the child; and
 - ii) there is no danger of violence between the parents; and
 - iii) no confidential information concerning the custodial parent, such as mental health information, may be shared with the non-custodial parent, unless the custodial parent consents in writing to the sharing of such information as provided in 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services). If the custodial parent does not consent to the release of confidential information, the meeting shall be conducted in segments, with the non-custodial parent excluded from any discussion that includes the information about the custodial parent that is confidential;
- D) the casework supervisor.

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- 2) In addition, at the supervisor's discretion and with the signed consent of the parent, the following may be invited:
 - A) appropriate extended family members including non-custodial parents who are not interested in seeking custody;
 - B) foster parents and relative caregivers (see subsections (f), (g), (h) and (i) below);
 - C) service providers; and
 - D) the child, if emotionally and developmentally appropriate.
- c) Purpose of Initial Family Meeting
The purposes of the initial family meeting, to be conducted by the casework supervisor, are to:
 - 1) share information among all participants;
 - 2) review the initial and comprehensive assessments;
 - 3) discuss and prepare the initial service plan; and
 - 4) determine the permanency goal.
- d) Ongoing Family Meetings
 - 1) Following the initial family meeting, family meetings will be conducted on a flexible schedule, but no less than on a quarterly basis (at least four times a year approximately three months apart). The ongoing family meeting shall include at a minimum:
 - A) the caseworker;
 - B) the child's custodial parents;
 - C) the non-custodial parent with the same conditions as specified in subsection (a)(1)(C) above;
 - D) the casework supervisor at the supervisor's discretion. However, the supervisor must attend if the non-custodial parent will be attending the meeting;
 - 2) In addition, at the supervisor's discretion and with the signed consent of the parent, the following may be invited:
 - A) appropriate extended family members, including non-custodial parents who are not interested in seeking custody;
 - B) foster parents and relative caregivers (see subsections (f), (g), (h) and (i) below);
 - C) service providers; and
 - D) the child, if emotionally and developmentally appropriate.
- e) Purposes of Ongoing Family Meetings
The purposes of the ongoing family meetings are to:
 - 1) assure disclosure of the expectations of all parties;
 - 2) assess reasonable efforts on behalf of the Department or the purchase of service agency;
 - 3) assess reasonable progress on behalf of the family;
 - 4) assess whether the plan is serving the health, safety, and best interests of the child;
 - 5) provide support for decisionmaking that recognizes the child's sense of time, including whether the permanency goal and time frames for achieving the goal should be continued, and whether services and service providers are effective;
 - 6) share information among the participants;

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- 7) evaluate whether the identified behaviors and conditions are being addressed and whether the parents are engaged in the change process;
- 8) engage in planning that involves addressing the needs of the child with appropriate services and establishing realistic time frames for achievement of tasks and goals; and
- 9) review clinical material by various service providers. Clinical reports should be obtained and collateral contacts completed prior to the staffing. Professionals should have discussed findings and recommendations with the client/family prior to the meeting to promote open and honest discussion.
- f) Prior to inviting foster parents/relative caregivers to the initial family meeting, the caseworker must consider the statutory requirement that protects foster parents'/relative caregivers' names, addresses and telephone numbers from disclosure. Such information regarding the foster parents/relative caregivers shall not be disclosed to the child's parents at the initial family meeting that occurs within the first 30 days after the temporary custody hearing.
- g) In deciding whether to invite the foster parents/relative caregivers to the meeting, the caseworker shall take into consideration the level of violence or tendency toward violence displayed by the child's parents. This shall be assessed during the first 30 days as the caseworker is conducting the comprehensive assessment. The caseworker shall use information from:
 - 1) Department safety and risk assessments;
 - 2) the social history, including information such as the parents' arrest history, history of domestic violence, and court records; and
 - 3) the caseworker's own observations.
- h) Information concerning the level or tendency toward violence of the parents may be shared with the foster parents/relative caregivers to help them decide whether to attend the initial family meeting. In no event shall the address and telephone number of the foster parents/relative caregivers be disclosed at the initial family meeting.
- i) For all subsequent family meetings the same violence factor shall be considered when determining whether the foster parent/relative caregiver should attend and whether there is any danger to the foster parent/relative caregiver by attending the family meeting.
- j) The participants in the family meeting will attempt to reach decisions and agree on recommendations by consensus. If a consensus cannot be reached, the final decision rests with the supervisor on all meetings.
- k) Documentation of the meeting and report of the recommendations/decisions is to be made and included in the case record.
- l) Parents have the right to appeal decisions with which they disagree in accordance with 89 Ill. Adm. Code 337 (Service Appeal Process).

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(Source: Amended at 25 Ill. Reg. 117852, effective SEP 14 2001)

Section 315.130 Developing the Service Plan

Based on the information gathered during the assessment process described in Section 315.100 and through negotiation during the caseworker's contacts, visits, and at the initial family meeting, the caseworker and family shall develop a plan of intervention that is based on the family's strengths and needs and that addresses how the children's needs for health and safety will be met.

- a) Purpose of the Service Plan
The service plan is a written plan that is established between the Department and the children and family served, and any involved service providers. The purpose of the service plan is to:
 - 1) formulate goals for the child based on the child's needs for health, safety, and well-being that were identified during the assessment process;
 - 2) identify what actions the family, the caseworker, caregiver, and others will take to meet the needs of the child and achieve permanency;
 - 3) identify what additional interventions and services will be provided to the family, the caregiver, and the child in order to meet the child's needs and achieve permanency.
- b) State and Federal Requirement
Service plans are required by State [20 ILCS 505/6a] and Federal law (42 USCA 675) regardless of whether the child and family are served directly by the Department or through purchase of service providers. The service plan must ensure that the health and safety of the child are the paramount concerns that guide all service, placement, and planning provisions.
- c) Time Frames
The initial service plan shall be completed within 30 days after case opening and must be reviewed at least once every six months thereafter. The service plan shall be changed and updated as the child and family's situation changes and shall be reviewed regularly as specified in Section 315.150 (Revising the Service Plan).
- d) Contents of the Service Plan
Service plans shall contain the following information:
 - 1) the names of the children for whom the Department is legally responsible or to whom the Department is providing services;
 - 2) the health and safety factors that have resulted in placement of the children away from the family home and an identification of any problems that are causing continued placement of the children away from the home;
 - 3) what outcomes would be considered a resolution to these problems and the strengths the family possesses to achieve these outcomes;
 - 4) the reasons for the out of home placement and the reason why the

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child has been put in his or her current placement, the resources or other support that will be necessary to maintain the placement, and, where a residential placement has been deemed necessary, a description of how and when a plan for moving the child to the least restrictive, most homelike placement consistent with the child's best interest can be developed;

- 5) the services to be provided to the parents, for each child while in care, and the foster parents (if necessary when the child is placed in foster care) that may best resolve these problems;
- 6) the health care to be provided to the child and the mental health care to be provided to address the child's serious mental health needs as well as a description of the child's physical, developmental, educational or mental disability and any non-educational specialized services the child is receiving or should receive for each disability. If an Individual Treatment Plan (ITP) or Rehabilitative Services Plan exists for the child, it shall be attached to the service plan. To the extent available and accessible, the service plan shall incorporate the health records of the child, including:
 - A) the names and addresses of the child's health provider;
 - B) a record of the child's immunizations;
 - C) the child's known medical problems; and
 - D) the child's medications;

- 7) a description of the educational program/services the child is receiving or needs to receive (including information regarding Early Intervention, Head Start, or Pre-Kindergarten services for preschool children). If an Individualized Education Plan (IEP) or an Individualized Family Service Plan (IFSP) exists for a child, the IEP or IFSP shall be included in the record. To the extent available and accessible, the service plan shall incorporate the education records of the child, including:
 - A) the names and addresses of the child's educational providers;
 - B) the child's grade level performance; and
 - C) the child's school record;

- 8) who will provide the services, how often they will be provided, and an explanation of why these services will meet the needs of the child;

- 9) if children placed out of the parents' home are placed a substantial distance (more than 150 miles) from the home of the parents or in a different state, the reasons why the placement is in the best interests of the children;

- 10) if children placed out of the parents' home are placed in a different state, a requirement that the child be visited periodically, but not less frequently than every 12 months, by a caseworker of the Department or of the state in which the child has been placed, and that the caseworker submit a report on the visit to the Department;

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- 11) if siblings are placed apart from one another, the reasons why they are placed apart and what efforts are being made to find a joint placement for the sibling group;

- 12) the permanency goal for each child and the reason for selecting the goal;

- 13) in the case of child for whom the permanency plan is adoption or other permanent living arrangement, documentation of the steps the Department is taking to find and adoptive family or other permanent living arrangement;

- 14) in the case of a child for whom the permanency plan is independence, a written description of the programs and services which will help such a child prepare for the transition from foster care to independent living;

- 15) the responsibilities of the family and the child (when appropriate) in fulfilling the service plan;

- 16) the responsibilities of the Department and purchase of service providers, if any, to assist the family in fulfilling the service plan;

- 17) when children and families are separated, the parent-child and/or sibling visitation plan developed with the family in accordance with 89 Ill. Adm. Code 301 (Placement and Visitation Services), if visitation is not prohibited by court order. This plan shall include the time and place of visits, the frequency of visits, the length of visits, and who shall be present at the visits;

- 18) whether the name, address, and telephone number of the foster parent/relative caregiver may be released to the parent as determined by the assessment conducted in accordance with Section 315.100(b)(3);

- 19) the time frames for achieving the permanency goal and the objectives to resolve identified problems and the specification of any consequences to the child and family if the time frames are not met;

- 20) a statement that the parents or children may disagree with the service plan and that they may have their disagreement recorded; and

- 21) an explanation of how parents or children may request an appeal and fair hearing.

(Source: Amended at 25 Ill. Reg. 11785, effective SEP 14 2001)

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- 1) Heading of the Part: Placement and Visitation Services
- 2) Code Citation: 89 Ill. Adm. Code 301
- 3) Section Numbers:
- | | |
|---------|------------------------|
| | <u>Adopted Action:</u> |
| 301.20 | Amended |
| 301.60 | Amended |
| 301.210 | Amended |
| 301.220 | Amended |
| 301.230 | Amended |
| 301.410 | Added |
| 301.420 | Added |
| 301.430 | Added |
| 301.440 | Added |
| 301.450 | Added |
| 301.460 | Added |
| 301.470 | Added |
- 4) Statutory Authority: Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; Section 1-103 of the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305/1-103]; the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].
- 5) Effective Date of Amendments: September 14, 2001
- 6) Do these amendments contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 27, 2000, 24 Ill. Reg. 17419
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The only changes made are those editing and formatting changes recommended by the Joint Committee on Administrative Rules. Those changes, and only those changes, will be made by the Department in the adopted rule.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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- 13) Will these amendments replace emergency amendments currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The Department is amending Part 301 as follows:
In Section 301.20, the following definitions were added:
"Biological father" means a man who was not married to the mother when the child was born and who has acknowledged his paternity in open court, or who has signed a statement acknowledging paternity, or who is legally presumed to be the father because he married the child's mother after the child's birth and his name appears on the child's official record of birth, or whose paternity is adjudicated in court. When paternity has been established in the above manner, the relatives of the biological father as well as those of the mother may be considered for the placement of related children.
"Placement Clearance Process" means the approval of a child's placement in foster care or unlicensed relative care from the Placement Clearance Unit.
In Section 301.60, language was added that all placements in licensed foster homes and unlicensed relative homes must be approved through the Placement Clearance Process at the State Central Register. Language was also added that the Department may take progressive action against private agencies, DCFS regional offices and DCFS employees who fail to secure the approval or who provide false or misleading information when requesting the approval.
In Sections 301.210, 301.230 and Subpart D, language was added that describes the policy regarding the release of identifying information for licensed foster parents and license exempt relative caregivers in accordance with Section 35.3 of the Children and Family Services Act [20 ILCS 505/35.3].
In Section 301.220, language was added to revise and clarify "Department agency" as "Department or purchase of service agency".
- 16) Information and questions regarding these adopted amendments shall be directed to:
Mr. Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62703-1498
Telephone: (217) 524-1983
TDD: (217) 524-3715

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E-Mail: cfpolicy@idcfs.state.il.us

The full text of the adopted amendments begins on the next page.

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 301

PLACEMENT AND VISITATION SERVICES

Section

- 301.1 Purpose (Renumbered)
- 301.2 Definition (Repealed)
- 301.3 Foster Care Placement Goal (Renumbered)
- 301.4 Plans to Achieve This Goal (Renumbered)

SUBPART A: PLACEMENT SERVICES

Section

- 301.10 Purpose
- 301.20 Definitions
- 301.30 Introduction
- 301.40 Legal Authority to Place
- 301.50 Emergency Placement
- 301.60 Placement Selection Criteria
- 301.70 Sibling Placement
- 301.80 Relative Home Placement
- 301.90 Foster Family Home Care
- 301.100 Residential Care
- 301.110 Care in a Medical/Psychiatric Facility
- 301.120 Sharing Appropriate Information with the Caregiver
- 301.130 Medical Examinations for Children in Placement
- 301.140 Education of Children While in Placement

SUBPART B: VISITATION SERVICES

Section

- 301.200 Purpose
- 301.210 Family-Child Visitation
- 301.220 Sibling Visitation
- 301.230 Contact Among Siblings Placed Apart
- 301.240 Grandparents Visitation

SUBPART C: FOSTER CARE PLACEMENT GOAL

Section

- 301.310 Purpose
- 301.320 Foster Care Placement Goal
- 301.330 Plans to Achieve This Goal

SUBPART D: FOSTER PARENT/RELATIVE CAREGIVER IDENTIFYING INFORMATION

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Section	Purpose
301.410	Confidentiality of Foster Parent/Relative Caregiver Identifying Information
301.420	Routine Disclosure of Foster Parent/Relative Caregiver Identifying Information
301.430	Specific Disclosure of Foster Parent/Relative Caregiver Identifying Information
301.440	Specific Notice of Disclosure
301.450	Disclosure Prohibited
301.460	Redisclosure Prohibited
301.470	

APPENDIX A Criminal Convictions which Prevent Placement of Children with Relatives

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; Section 1-103 of the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305/1-103]; the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; the Child Care Act of 1969 [225 ILCS 10]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 7 Ill. Reg. 881, effective January 12, 1983; amended at 9 Ill. Reg. 9904, effective July 1, 1985; amended at 19 Ill. Reg. 9438, effective July 1, 1995; emergency amendment at 20 Ill. Reg. 3961, effective February 16, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 4602, effective March 15, 1996; amended at 20 Ill. Reg. 9036, effective July 11, 1996; amended at 20 Ill. Reg. 9518, effective July 5, 1996; amended at 21 Ill. Reg. 13580, effective October 1, 1997; amended at 23 Ill. Reg. 13062, effective October 20, 1999; emergency amendment at 24 Ill. Reg. 6427, effective March 27, 2000, for a maximum of 150 days; emergency expired August 23, 2000; amended at 25 Ill. Reg. 841, effective January 5, 2001; amended at 25 Ill. Reg. 11803, effective SEP 14 2001.

SUBPART A: PLACEMENT SERVICES

Section 301.20 Definitions

"Administrative case review" or "ACR" means case reviews required by 42 USCA 675(1) and 20 ILCS 505/6a.

"Biological father" means a man who was not married to the mother when the child was born and who has acknowledged his paternity in open court, or who has signed a statement acknowledging paternity, or who is legally presumed to be the father because he married the child's mother after the child's birth and his name appears on the child's official record of birth, or whose paternity is adjudicated in court.

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When paternity has been established in the above manner, the relatives of the biological father as well as those of the mother may be considered for the placement of related children.

"Child only standard of need" means the assistance standard for cases in which no adult member is included, as established by the Illinois Department of Human Services in 89 Ill. Adm. Code 111 (Assistance Standards).

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents signed an adoptive surrender or voluntary placement agreement with the Department.

"Contact between siblings", as used in this Part, means telephone and written communication among siblings who are placed apart from one another.

"Department" as used in this Part, means the Department of Children and Family Services.

"Diligent search", as used in this Part, means the efforts used by the Department to find a joint placement for siblings who must be placed apart from their families. Diligent search is further defined in Section 301.70(c) of this Part.

"Family" means one or more adults and children, related by blood, marriage, or adoption and residing in the same household.

"Father" means a man presumed to be the natural father of a child if:

- he and the child's natural mother are or have been married to each other, even though the marriage is or could be declared invalid, and the child is born or conceived during such marriage;
- after the child's birth, he and the child's natural mother have married each other, even though the marriage is or could be declared invalid, and he is named, with his consent, as the child's father on the child's birth certificate pursuant to Section 12 of the Vital Records Act;
- he and the natural mother have signed an acknowledgment of paternity in accordance with rules adopted by the Illinois Department of Public Aid under Section 10-17.7 of the Illinois Public Aid Code; or
- he and the child's mother have signed a petition to establish the

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parent and child relationship by consent of the parties in accordance with Section 6 of this Act.

A man can rebut a presumption of paternity before a court of jurisdiction [750 ILCS 45/5]. Father also means a man who adopts a child or has been determined by court or administrative adjudication to be the child's father.

"Federally-funded foster care" means foster care maintenance payments made in accordance with Title IV-E of the Social Security Act for which federal matching grants are received.

"Foster care payment" means the amount paid by the Department for a child's room, board, clothing, and personal allowance in a licensed foster family home.

"Joint placement", in the context of sibling placement, means the siblings are placed in the same substitute care setting.

"LEADS" means Law Enforcement Agency Data System.

"Parents" means the child's legal parents whose parental rights have not been terminated and adoptive parents. Biological fathers are considered legal parents when paternity has been established as required by the definition in this Section.

"Permanency goal" means the desired outcome of intervention and service, which is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

"Permanent family placement" means placement in a foster family home or a relative home that which is intended to last until the child reaches age 21 or until the child is capable of self-sufficiency. The Department may retain guardianship of the child or the foster parent or relative may assume guardianship of the child.

"Permanent legal status" means a legally binding relationship between a child and a family as established by birth or a court of law.

"Placement Clearance Process" means the approval of a child's placement in foster care or unlicensed relative care from the Placement Clearance Unit.

"Region" means Cook County or any of the downstate Department of Children and Family Services regions.

"Relative," for purposes of placement of children for whom the

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Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

- is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, great-uncle, or great-aunt, or

- is the spouse of such a relative, or

- is the child's step-father, step-mother, or adult step-brother or step-sister.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

"Residential facility", for the purposes of the Aristotle P. Consent Decree, means all non-foster care or relative home care placements.

"Service plan" means a written plan on a form prescribed by the Department in the plan toward the permanency goal for the children required by 42 USC 675(5), 325 ILCS 5/8.2, and 89 Ill. Adm. Code 315 (Permanency Planning).

"Short-term diagnostic placement" means a placement limited to 30 days after the time period deemed clinically necessary to complete the appropriate diagnostic evaluation or treatment, and in no event shall last more than 90 days.

"Siblings" mean children in the custody or guardianship of the Department who have a shared biological or adoptive parent.

"Substitute care" means the care of children who require placement away from their families. Substitute care includes foster family care, care of a child for whom the Department is legally responsible provided in a relative family home, care provided in a group home, and care provided in a child care or other institution.

"Visitation", as used in this Subpart, means face-to-face contact between parents and their children who are in substitute care or among siblings who are placed apart from one another.

"Voluntary placement agreement" means a time-limited written request and consent from a parent, guardian or legal custodian of a child for placement of the child out of the home. When signed by designated Department staff, the Department agrees to provide child welfare

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services which include placement.

(Source: Amended at 25 Ill. Reg. 11803, effective
SEP 14 2001)

Section 301.60 Placement Selection Criteria

- a) All placement decisions will be made consistent with the safety, best interests and special needs of the child. When a child is removed from the care of a custodial parent, the placing worker shall explore whether the non-custodial parent would be a suitable caregiver for the child. If placement with the non-custodial parent is not consistent with the safety, best interests and special needs of the child or if the non-custodial parent is not a suitable caregiver for the child, placement in substitute care shall be considered.
- b) Substitute care placement decisions consistent with the safety, best interests and special needs of the child shall be made in consideration of the following:

- 1) the least restrictive setting appropriate for the child which most closely approximates a family;
- 2) placement within reasonable proximity to the child's home when the permanency goal is return home, and within the child's school district, whenever possible, taking into account any special needs of the child and family, the importance of maintaining continuity of the children's educational and social relationships, and the availability of the service resources needed for the child and family;
- 3) the ability of prospective foster or adoptive parents to meet the needs of a child. Placement in a foster or adoptive family home shall not be denied or delayed on the basis of the race, color, or national origin of the child, or the foster or adoptive family home members, nor shall placement for adoption of a child be denied or delayed if an approved family is available either outside of the Department's region handling the case or outside of the State of Illinois; and
- 4) placement, if the child is of American Indian heritage, according to criteria described in 89 Ill. Adm. Code 307 (Indian Child Welfare Services).

c) Approval through the Department's Placement Clearance Process is required prior to all placements in licensed foster family homes and unlicensed relative homes.

d) When a private agency or DCFS worker fails to secure prior approval for a placement in a licensed foster family home or unlicensed relative home through the Placement Clearance Process or provides false or misleading information when requesting an approval, the Director may take progressive action including, but not limited to:

- 1) placing the worker's private agency or DCFS region on hold for cases; and

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2) implementing progressive discipline for the DCFS worker.

(Source: Amended at 25 Ill. Reg. 11803, effective
SEP 14 2001)

Section 301.210 Family-Child Visitation

- a) The Department recognizes that there is a strong correlation between regular parental visits and contacts with a child and the child's discharge from placement services. Therefore, when a child is in placement and the permanency goal is return home, parent-child visits, telephone calls at reasonable hours, and mail are encouraged unless they have been prohibited by court order. The name, address and telephone number of the foster parent/relative caregiver shall not be disclosed to the parents until the assessment has been completed and a determination has been made whether to disclose the information in accordance with Section 301.440(a). The responsible agency shall arrange for parent-child visits and shall advise parents that repeated failure to visit according to the visiting plan shall be considered a demonstration of a lack of parental concern for the child and may result in the Department seeking a termination of parental rights.

b) When the permanency goal is return home, a visiting plan shall:

- 1) be established before placement or within three working days after placement out-of-home unless the placement was an emergency;
- 2) be established within ten working days after an emergency placement;
- 3) specify that visits are to begin immediately;
- 4) specify that parents shall be expected to visit weekly unless there is documentation to the contrary in the case/record;
- 5) increase in length unless specific harm to the child is caused by the visits;
- 6) specify visiting in the home of the child's parents, if consistent with the safety and well-being of the child. When visits in the home of the child's parents are not consistent with the child's safety and well-being, visits shall be in the most homelike setting possible. Office visits are acceptable if structure is necessary to evaluate or protect the child; and
- 7) specify how contacts are to be maintained if the determination has been made not to release identifying information regarding the foster parent/relative caregiver in accordance with Section 301.440(a); and
- 8) specify the responsibilities of the Department, the purchase of service providers, the parents, and the child in regard to visitation.

(Source: Amended at 25 Ill. Reg. 11803, effective
SEP 14 2001)

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Section 301.220 Sibling Visitation

- a) The Department or purchase of service agency shall schedule and provide visits among all siblings in substitute care who are placed apart at least twice per month, beginning no later than two weeks after the Department is awarded temporary custody of any sibling, unless:
- 1) a court has ordered that sibling visits occur less frequently or not at all;
 - 2) the child has stated that he or she does not want to visit with his or her siblings or wants to visit less frequently and has been counseled by the Department on the importance of maintaining family ties. If such a child is age 16 or under, the Department shall inquire of the child at least quarterly whether he or she wants to resume or increase the frequency of visits; or
 - 3) one sibling may physically, mentally, or emotionally harm another during the visit, and supervision would be inadequate to eliminate the risk of such harm as determined by prior observation or documentation of their interaction as recorded in the child's case file.
- b) If a sibling is placed in a residential facility, visitation with that child may occur less frequently than twice per month if:
- 1) the child is at risk of physical harm if he or she visits with his or her siblings and that harm is specifically documented in the child's case file;
 - 2) the child is at risk of mental or emotional harm if he or she visits with his or her siblings as determined by a qualified mental health professional; or
 - 3) the child is placed in a residential facility that is located more than 150 miles from his or her siblings, provided, however, that in such event the Department shall provide the child a visit with his or her siblings, preferably overnight, at least every other month.
- c) If the frequency of visits between two siblings is reduced to less than twice per month, the frequency of each child's visits with the other siblings, if any, and of the other siblings visits with each other shall not be reduced except for the reasons stated in subsections (a)(1) through (3) or (b)(1) through (3) above of this Section, or by order of a court.
- d) Neither the Department nor its contractual agencies shall reduce nor seek to have a court reduce the frequency of visits based on the unavailability of a supervisor for the visits or as a form of discipline.
- e) Visits may begin sooner than two weeks after the Department is awarded temporary custody of a sibling, if the siblings express a desire to see each other, no court has prohibited visits, and a qualified supervisor (if deemed necessary) and an appropriate time and location for visits have been identified.

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- f) A sibling visitation plan, specifying the frequency of sibling visits, shall be developed by the siblings' caseworkers, foster parents, and the children (seven years of age and older) within 30 days after award of temporary custody of the siblings. The sibling visitation plan shall be included in the children's case plans.
- g) The sibling visitation plan may be included as a part of and implemented in coordination with a plan for parent-child visits developed in accordance with Section 301.210, Family-Child Visitation. The frequency of sibling visitation shall in no way be affected by the failure of any parent to visit his or her children for any reason.
- h) The sibling visitation plan shall specify the duration of sibling visits and may also include the location and supervision to be provided for visits. A brief statement of the reasons for selecting the frequency and duration of sibling visits as specified in the visitation plan shall also be recorded in the plan.
- i) No changes shall be made in the sibling visitation plan without prior consultation with the siblings (seven years old and older) and with the siblings' foster parents unless there is substantial risk of harm to the child if the visits continue unchanged. The sibling visitation plan and its implementation shall be reviewed at each child's administrative case review.

(Source: Amended at 25 Ill. Reg. 11803, effective SEP 14 2001)

Section 301.230 Contact Among Siblings Placed Apart

- a) If the Department determines that it is in the child's best interests to be provided information on a sibling's whereabouts or to have his or her whereabouts provided to his or her siblings, and no court has prohibited disclosure of this information, the Department shall promote contact and communication among siblings placed apart by taking the following actions:
- 1) the Department or purchase of service agency shall provide children who are seven years old and older and their foster parents or other caregiver with each sibling's birth date and the name, address, and telephone number of the foster parent or other caretaker of each sibling placed by the Department in substitute care. The Department shall also provide such information regarding siblings in the custody of a parent, if that information is or becomes known to the Department;
 - 2) the Department or purchase of service agency shall provide children who are seven years of age and older who are in the care of their parents with the name, address and telephone number of siblings under the custody/guardianship of the Department, unless:
 - A) the Department or purchase of service agency has determined that it is not in the child's best interests to provide

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information on his or her whereabouts to his or her siblings, and the Department has notified each child's attorney and guardian ad litem in accordance with subsection (b);

B) the Department or purchase of service agency has determined that identifying information of the foster parent/relative caregiver shall not be released to the sibling based on the results of the assessment completed in accordance with Section 301.440(a), and each child's attorney and guardian ad litem has been notified in accordance with Section 301.440(b); or

C) a court has prohibited disclosure of this information;

3) whenever a child is moved to another placement, the Department shall give written notice of the name, address, and telephone number of the child's new foster parent or other caregiver to each sibling and the foster parent or other caregiver of each sibling in writing within seven days after the move; and

4) the Department shall permit and shall encourage foster parents and caregivers to assist children to write and phone their siblings as often as the children wish, provided, however, that, if necessary, a plan for scheduling reasonable phone calls may be established by the children's caseworker, together with the foster parent or other caregiver and the children. This plan shall be incorporated in the children's service plans. The Department shall also facilitate the use of mail for siblings' contact with each other, including payment of postage.

b) If the Department determines that it is not in a child's best interests to be provide information on a sibling's whereabouts or to have information on his or her whereabouts provided to his or her siblings, the Department shall notify each child's attorney and guardian ad litem in writing within seven days after that determination. The Department shall also record the reasons for that determination in the children's case records.

c) Neither the Department nor its contractual agencies shall restrict or seek to have any court restrict contact among siblings as a form of discipline under any circumstances.

(Source: Amended at 25 Ill. Reg. 11803, effective SEP 14 2001)

SUBPART D: FOSTER PARENT/RELATIVE CAREGIVER IDENTIFYING INFORMATION

Section 301.410 Purpose

The purpose of this Subpart is to describe the Department's policy regarding the release of identifying information about licensed foster parents and license exempt relative caregivers.

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(Source: Added at 25 Ill. Reg. 11803, effective SEP 14 2001)

Section 301.420 Confidentiality of Foster Parent/Relative Caregiver Identifying Information

In accordance with Section 35.3 of the Children and Family Services Act [20 ILCS 505/35.3], identifying information regarding licensed foster parents and license exempt relative caregivers shall be regarded as confidential. The name, address or telephone number of a foster parent or relative caregiver shall be disclosed only as provided by this Subpart.

(Source: Added at 25 Ill. Reg. 11803, effective SEP 14 2001)

Section 301.430 Routine Disclosure of Foster Parent/Relative Caregiver Identifying Information

a) Identifying information regarding foster parents or relative caregivers, including names, addresses, telephone numbers, and primary language or preferred mode of communication, may be disclosed to the following persons only when appropriate and necessary for the delivery of child welfare services. Such information shall not be redisclosed except in conformance with this Subpart.

1) Department and private child welfare agency staff responsible for the delivery of services to the child, the family, or the foster parents;

2) State's Attorneys and Assistant State's Attorneys;

3) Guardians Ad Litem (attorneys appointed to represent the child's best interests in Juvenile Court) for children placed in the foster family/relative caregiver home;

4) Court personnel;

5) Court appointed special advocates;

6) Administrative Case Review staff;

7) Medical providers providing care to the child;

8) The child's school and educators;

9) Other service providers for the children in care;

10) Children who are seven years of age or older under the custody/guardianship of the Department who are siblings of children placed with the foster parent/relative caregiver in accordance with Section 301.220 (Sibling Visitation) and Section 301.230 (Contact Among Siblings Placed Apart), unless a decision has been made to withhold the information in accordance with Section 301.440;

11) Illinois Department of Public Aid (for purposes of processing Medicaid claims);

12) Quality assurance staff employed or contracted by the Department to conduct quality assurance reviews;

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- 13) Social Security Administration;
 14) Researchers whose research has been approved by the Department in accordance with 89 Ill. Adm. Code 432 (Research Involving Children and Families); and
 15) Statewide foster parent associations or other foster parent groups recognized by the Department.
- b) When a license is issued to foster parents or upon placement of a child with a relative caregiver, the Department or purchase of service agency shall give written notice to the foster parent/relative caregiver that the foster parent's/relative caregiver's name, address and telephone number will be released to the persons identified in subsection (a) above, as necessary to provide services, without further subsequent notice.

(Source: Added at 25 Ill. Reg. 11803⁰⁰, effective SEP 14 2001)

Section 301.440 Specific Disclosure of Foster Parent/Relative Caregiver Identifying Information

a) Assessment

During the first 30 days after the child comes into care, the Department or purchase of service agency shall conduct an assessment in accordance with 89 Ill. Adm. Code 315 (Permanency Planning), Section 315.100 (Assessment). Identifying information of the foster parent/relative caregiver shall not be released to the child's parents or siblings in the care of their parents when any of the following is found in the assessment of the parent or other adult living in the home:

- 1) A check of the Law Enforcement Agencies Data System (LEADS) identifies a conviction for any of the crimes listed in Appendix A(a)(1), (3), or (4) of this Part; or
- 2) The parent or other adult living in the home has threatened violence against a foster parent/relative caregiver or Department or purchase of service agency worker; or
- 3) The parent or other adult living in the home has exhibited violence against a foster parent/relative caregiver or Department or purchase of service agency worker in the past; or
- 4) The parent or other adult living in the home has threatened to abduct or harm the child.

b) When a decision is made based on the assessment completed in accordance with subsection (a) not to disclose the identifying information of the foster parent/relative caregiver to siblings in the care of their parents, the Department or purchase of service agency shall notify each child's attorney and guardian ad litem in writing within seven days after that determination and shall provide information from the assessment to justify the decision.

c) Disclosure to Parents When the Goal is Return Home

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- 1) When the child's permanency goal is return home, parent-child visits, telephone calls at reasonable hours and mail shall be encouraged in accordance with the service plan and Section 301.210(a) (Family-Child Visitation). The name, address and telephone number of the foster parent/relative caregiver shall not be disclosed to the parents until the assessment has been completed and a determination has been made whether to disclose the information.
- 2) If, based on the assessment in subsection (a) above, the Department or purchase of service agency determines that the name, address and telephone number of children under the custody/guardianship of the Department should be released to the parents, the Department shall notify the foster parent/relative caregiver in accordance with Section 301.450.

d) Disclosure to Siblings in the Care of Their Parents
 The Department or purchase of service agency shall provide children who are seven years of age and older who are in the care of their parents with the name, address and telephone number of children under the custody/guardianship of the Department in accordance with Section 301.230 (Contact Among Siblings Placed Apart), unless:

- 1) the Department or purchase of service agency has determined that it is not in the child's best interests to provide information on his or her whereabouts to his or her siblings, and the Department or purchase of service agency has notified each child's attorney and guardian ad litem in accordance with Section 301.230(b);
 - 2) the Department or purchase of service agency has determined that identifying information of the foster parent/relative caregiver shall not be released to the sibling based on the results of the assessment completed in accordance with subsection (a) and the Department or purchase of service agency has notified each child's attorney and guardian ad litem in accordance with subsection (b); or
 - 3) a court has prohibited disclosure of this information.
- e) Other Permissible Disclosure
 The name, address and telephone number of foster parents or relative caregivers may be given to persons other than those listed in subsections (c) and (d), as necessary to provide services described in the service plan when specific notice has been given in accordance with Section 301.450.

(Source: Added at 25 Ill. Reg. 11803⁰⁰, effective SEP 14 2001)

Section 301.450 Specific Notice of Disclosure

When the Department or purchase of service agency makes a decision to disclose the name, address or telephone number of the foster parents or relative caregivers to anyone other than the individuals listed in Section 301.430, the

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foster parents or relative caregivers shall be informed in writing of this decision prior to disclosure. The notice shall inform the foster parents or relative caregivers that:

- a) They have ten calendar days from the date of such notice in which to request a decision review from the Department or purchase of service agency in accordance with 89 Ill. Adm. Code 316 (Administrative Case Reviews and Court Hearings), Section 316.90 (Decision Review); and they have ten calendar days to seek an order of protection under Section 2.25 of the Juvenile Court Act of 1987 [705 ILCS 405/2.25];
- b) No identifying information regarding the foster parents or relative caregivers shall be disclosed until ten calendar days after the date of the notice. If, during this ten day period, the foster parent or relative caregiver has requested a decision review, release of the information shall be postponed until the decision review has been completed. The foster parent or relative caregiver shall notify the Department or purchase of service agency worker or the worker's supervisor that a decision review has been requested; and
- c) If the foster parent or relative caregiver disagrees with the decision to disclose the information, the foster parent or relative caregiver may seek an order of protection under Section 2.25 of the Juvenile Court Act of 1987 [705 ILCS 405/2.25].

(Source: Added SEP 14 2001 at 25 Ill. Reg. 11803, effective SEP 14 2001)

Section 301.460 Disclosure Prohibited

The Department or purchase of service agency shall not release the name, address and telephone number of the foster parent/relative caregiver to the child's parents when:

- a) A court has issued a valid order of protection in accordance with Section 2.25 of the Juvenile Court Act [705 ILCS 405/2-25];
- b) The parental rights of the parents have been judicially terminated, the parents have surrendered the child for adoption, or the parents have signed a consent to adoption by a specified person and continued contact between parents and child is not a part of the client service plan; or
- c) The child has a permanency goal other than return home and the child has no siblings residing in the home of the parent.

(Source: Added at 25 Ill. Reg. 11803, effective SEP 14 2001)

Section 301.470 Redisclosure Prohibited

- a) A person to whom disclosure of a foster parent's/relative caregiver's name, address, or telephone number is made under this Subpart shall not redisclose that information except as provided in the Children and

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Family Services Act, the Juvenile Court Act of 1987, or the Abused and Neglected Child Reporting Act. Any person who knowingly and willfully rediscloses a foster parent's/relative caregiver's name, address, or telephone number in violation of this Subpart is guilty of a Class A misdemeanor. [20 ILCS 505/35.3(b)]

- b) The Department or purchase of service agency shall provide written notice of the provisions of subsection (a), including the penalty for a Class A misdemeanor, to anyone to whom the Department discloses a foster parent's/relative caregiver's name, address, or telephone number. [20 ILCS 505/35.3(c)]
- c) If a person to whom disclosure of a foster parent's/relative caregiver's name, address or telephone number is made has reason to believe that disclosure to another individual is warranted, the person shall contact the Department or purchase of service agency to request disclosure of the information, if appropriate, in accordance with the provisions of this Subpart.
- d) This Section is not intended to preclude reporting of crimes or of child abuse or neglect to appropriate authorities.
- e) This Section is not intended to override or preclude or violate any common law or statutory confidentiality provisions, such as attorney/client or therapist/client privileges.

(Source: Added SEP 14 2001 at 25 Ill. Reg. 11803, effective SEP 14 2001)

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- 1) Heading of the Part: Services Delivered by the Department
- 2) Code Citation: 89 Ill. Adm. Code 302
- 3) Section Numbers:
302.310 Amended
302.405 Amended
- 4) Statutory Authority: Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; Section 1-103 of the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305/1-103]; the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].
- 5) Effective Date of Amendments: August 31, 2001
- 6) Do these amendments contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: March 23, 2001, 25 Ill. Reg. 4065
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Differences between proposal and final version: The only changes made are those editing and formatting changes recommended by the Joint Committee on Administrative Rules. Those changes, and only those changes, are made by the Department in the adopted rule.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The Department has created an incentive payment of \$3000 for children between 14 to 18 years of age who are placed in an adoptive home, or for whom private guardianship has been awarded, during the time period of March 15, 2001 and June 30, 2002. The payment will be given directly to the child when the adoption assistance

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or subsidized guardianship subsidy ends. The payment is intended to assist the child's transition to adulthood, to help pay for education, housing, or other forms of vocational training or employment assistance.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Mr. Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62703-1498
Telephone: (217) 524-1983
TDD: (217) 524-3715
E-Mail: cfpolicy@idcfs.state.il.us

The full text of the adopted amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 302

SERVICES DELIVERED BY THE DEPARTMENT

SUBPART A: GENERAL PROVISIONS

Section

302.10 Purpose

302.20 Definitions

302.30 Introduction

302.40 Department Service Goals

302.50 Functions in Support of Services

SUBPART B: REPORTS OF SUSPECTED CHILD ABUSE OR NEGLECT (RECODIFIED)

Section

302.100 Reporting Child Abuse or Neglect to the Department (Recodified)

302.110 Content of Child Abuse or Neglect Reports (Recodified)

302.120 Transmittal of Child Abuse or Neglect Reports (Recodified)

302.130 Special Types of Reports (Recodified)

302.140 Referrals to the Local Law Enforcement Agency and State's Attorney (Recodified)

302.150 Delegation of the Investigation (Recodified)

302.160 The Investigative Process (Recodified)

302.170 Taking Children Into Temporary Protective Custody (Recodified)

302.180 Notification of the Determination Whether Child Abuse or Neglect Occurred (Recodified)

302.190 Referral for Other Services (Recodified)

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section

302.300 Adoptive Placement Services (Repealed)

302.305 Adoption Listing Service for Hard-to-Place Children or Children with Disabilities for Whom the Department is Not Legally Responsible

302.310 Adoption Assistance Agreements

302.311 Nonrecurring Adoption Expenses (Repealed)

302.315 Adoption Registry (Repealed)

302.320 Counseling or Casework Services

302.330 Day Care Services

302.340 Emergency Caretaker Services

302.350 Family Planning Services

302.360 Health Care Services

302.370 Homemaker Services

302.380 Information and Referral Services

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302.390 Placement Services (Repealed)

302.400 Successor Guardianship (Repealed)

302.405 Subsidized Guardianship Program

SUBPART D: INTENSIVE FAMILY PRESERVATION SERVICES

Section

302.500 Purpose

302.510 Implementation of the Family Preservation Act

302.520 Types of Intensive Family Preservation Services

302.530 Phase In Plan for Statewide Family Preservation Services

302.540 Time Frames

APPENDIX A

Acknowledgement of Mandated Reporter Status (Recodified)

APPENDIX B

Calculating the Amount of Adoption Assistance (Repealed)

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305]; the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg. 5557, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1551, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified to 89 Ill. Adm. Code 300 at 11 Ill. Reg. 3492, Sections 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, Appendix A; amended at 13 Ill. Reg. 18847, effective November 15, 1989; amended at 14 Ill. Reg. 3438, effective March 1, 1990; amended at 14 Ill. Reg. 16430, effective September 25, 1990; amended at 14 Ill. Reg. 19010, effective November 15, 1990; amended at 16 Ill. Reg. 274, effective December 31, 1992; emergency amendment at 17 Ill. Reg. 2513, effective February 10, 1993, for a maximum of 150 days; emergency expired on July 9, 1993; amended at 17 Ill. Reg. 13438, effective July 31, 1993; amended at 19 Ill. Reg. 9107, effective June 30, 1995; amended at 19 Ill. Reg. 9485, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10746, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; emergency amendment at 19 Ill. Reg. 16735, effective November 28, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4606, effective March 15, 1996; amended at 20 Ill. Reg. 6670, effective May 1, 1996; emergency amendment at 21 Ill. Reg. 1033, effective January 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3265, effective March

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1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6204, effective May 15, 1997; amended at 21 Ill. Reg. 10912, effective July 29, 1997; amended at 22 Ill. Reg. 7140, effective April 13, 1998; emergency amendment at 22 Ill. Reg. 7289, effective April 13, 1998, for a maximum of 150 days; emergency expired September 10, 1998; amended at 22 Ill. Reg. 8803, effective May 15, 1998; amended at 22 Ill. Reg. 21314, effective December 1, 1998; emergency amendment at 25 Ill. Reg. 4292, effective March 15, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11821, effective AUG 31 2001.

SUBPART C: DEPARTMENT OF CHILD WELFARE SERVICES

Section 302.310 Adoption Assistance Agreements

a) Adoption assistance may be provided to those persons adopting children who are legally free for adoption, for whom the Department is legally responsible, who are residents of Illinois, and who the Department has determined have special needs because of which it is reasonable to conclude that the child cannot be adopted unless adoption assistance is provided. Although eligibility for adoption assistance shall be determined regardless of the financial circumstances of the adoptive parents, the types and amounts of assistance under each adoption assistance agreement shall be determined by the Department and the adoptive parents on an individual basis. The Department shall take into consideration the specific circumstances of the adoptive parents and any special care needs of the child being adopted as described in subsection (b)(2) of this Section. The types of adoption assistance that may be provided include:

- 1) one-time only payments of non-recurring adoption expenses incurred by or on behalf of the adoptive parents in connection with the adoption of a special needs child, up to a maximum of \$1500 for each adopted child;
- 2) payments for physical, emotional and mental health needs not wholly payable through insurance or other public resources that are associated with or result from a condition whose onset has been established as occurring prior to the completion of the adoption. Such payments include medical benefits as provided under Title XIX of the Social Security Act (Medicaid) and include services such as physician and clinic fees, hospitalization costs, and prescriptions;
- 3) in cases where a child also meets the eligibility requirements of subsection (d) of this Section, ongoing monthly payments in an amount determined in each case by the Department not to exceed the applicable licensed foster care payment level the child would be receiving if the child were in foster care and subject to adjustment at a review every two years, or more frequently based on changes in the circumstances of the adopted parents and the needs of the child being adopted. However, while payments may be increased based on changes in the level of care the child needs,

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payments will not be decreased based on changes in the level of care. In no event shall the monthly adoption assistance payment be greater than the applicable licensed foster family care payment level;

4) an incentive payment of \$3000 for children who are 14 to 18 years of age when adopted during the time period of March 15, 2001 through June 30, 2002. For a further description of the purpose and terms of this payment, see subsection (k) of this Section.

b) For purposes of this Section, a child shall not be considered a child with special needs unless the Department has first determined that:

1) the child cannot or should not be returned to the home of his or her parents, as determined by:

A) a judicial adjudication that the child is abused, neglected or dependent or other judicial determination that there is probable cause to believe that a child is abused, neglected or dependent; and

B) a determination by the Department that the child is likely to suffer further abuse or neglect or will not be adequately cared for if returned to the parent(s); and

2) the child meets one of the following criteria:

A) has an irreversible or non-correctable physical, mental or emotional disability; or

B) has a physical, mental or emotional disability correctable through surgery, treatment, or other specialized services; or

C) is three years of age or older; or

D) is a member of a sibling group being adopted together where at least one child meets one of the criteria in subsection (b)(2)(A) through (C) above; or

E) is a child being adopted by adoptive parents who have previously adopted, with adoption assistance, another child born of the same mother or father; and

3) a reasonable, but unsuccessful, effort has been made to place the child with adoptive parents without providing adoption assistance and the prospective adoptive parents are either unwilling or unable to adopt the child without adoption assistance, as evidenced by a written statement from the adoptive parents. A documented search for alternative adoptive placements without adoption assistance shall be made unless the Department determines that such a search is against the best interests of the child because the child has developed significant emotional ties with the prospective adoptive parents while in their foster care.

c) Adoption assistance as a one-time only payment for non-recurring adoption expenses shall be provided to parents adopting a child who is determined by the Department to have special needs as provided in subsection (b) of this Section. This includes expenses incurred by or on behalf of such parents, in connection with the adoption of a

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special needs child, either directly or through another public or private agency. These expenses include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of a child with special needs and that are not incurred in violation of State or Federal law. The amount of payments to be made in any specific case shall be determined by the needs of the child being adopted and the availability of pro bono services, and shall not exceed \$1500 per adoptive child. The adoptive parents may refuse any or all payments available under this subsection (c) of this Section.

d) Adoption assistance for ongoing monthly payments and medical assistance may be provided to parents adopting a child who:

1) is determined by the Department to have special needs as provided in subsection (b) of this Section; and

2) meets one of the following conditions:

A) was eligible at the time the adoption petition was filed for

Aid to Families with Dependent Children (AFDC) under the provisions of Title IV-A of the Social Security Act in effect as of July 16, 1996; or

B) was eligible for foster care maintenance payments under Title IV-E of the Social Security Act at the time the adoption petition was filed; or

C) was eligible for Supplemental Security Income (SSI) prior to finalization of the adoption; or

D) is a child for whom the Department of Children and Family Services was legally responsible when the adoption petition was filed; and

3) in all cases, other than a child determined to have special needs under subsection (b)(2) of this Section because of a documented physical, mental, or emotional disability, the child has been in the care of the Department or another agency or person other than his or her parents pursuant to an order of the court for at least one year prior to the adoption unless the child is being adopted after October 1, 1997 and is a child who had previously been adopted with adoption assistance, but the adoption was dissolved and the parental rights of the adoptive parents were terminated, or the adoptive parents died. However, the one year placement requirement is not applicable for sibling groups where at least one sibling is determined to be special needs because of a documented physical, mental, or emotional disability and meets all requirements for adoption assistance.

e) The Department shall make an initial determination whether to provide ongoing monthly payments and the amount of the payment in each individual case by taking into consideration the circumstances of the adoptive parents and the needs, age, and type of placement of the child being adopted as adjusted for any benefits the child will be receiving, such as Social Security, Veterans' benefits, railroad retirement or black lung benefits. Supplemental Security benefits

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(SSI) are not to be considered in the determination of the ongoing monthly payment. If a child is receiving SSI, the receipt of adoption assistance is taken into consideration by the Social Security Administration when calculating the amount of the SSI benefit.

f) In cases where the determination under subsection (b)(2) of this Section is based on a diagnosis that the child may eventually require care for a documented medical condition or disability related to pre-existing physical, mental, or emotional conditions or risk factors that do not yet require treatment at the time of the adoption, no such payments shall be made at that time. The adoption assistance agreement may provide that such payments be initiated when the child's pre-existing condition or identified risk factors warrant treatment or professional intervention. If such payments are commenced, the ongoing monthly payment shall in no event exceed the amount the child would receive if the child was in foster care at the time the payments are initiated.

g) The adoption assistance agreement providing for ongoing monthly payments and medical assistance shall include an agreement with the adoptive parents that the amount of any ongoing monthly payments shall be reviewed ~~at least~~ every two years and may be readjusted every two years or more frequently, based on changes in the circumstances of the adoptive parents and the needs of the child being adopted. However, while payments may be increased based on changes in the level of care the child needs, payment will not be decreased based on changes in the level of care. If the adoptive parents or the adopted child disagree with the Department's determination, they may appeal the determination in accordance with 89 Ill. Adm. Code 337 (Service Appeal Process). Adoptive parents may refuse any or all payments offered by the Department.

h) A prospective adoptive family being presented with a child determined to be a special needs child shall be made aware of the availability of adoption assistance and the types of adoption assistance and, in the case of ongoing monthly adoption assistance payments, that such payments are subject to review at least every two years and may be terminated or readjusted based on subsections (i) and (j). In order to receive adoption assistance, the child must be placed in the adoptive home and the adoption assistance agreement signed prior to finalization of the adoption.

i) The type(s), amount and duration of adoption assistance shall be agreed to in writing by the Department and the adoptive parent(s) prior to the finalization of the adoption, and shall be set forth in the adoption assistance agreement, which shall be binding on the parties to the agreement. The agreement shall also stipulate that the agreement shall remain in effect regardless of the state where the adoptive parents reside currently or in the future and shall contain provisions for the protection of the interests of the child in cases where the adoptive parents and child move to another state while the agreement is in effect. The duration of adoption assistance may

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extend until age 18 years, or until age 19 years if the child is still in high school, although adoption assistance may be provided at the Department's option until the child's 21st birthday if the child has a physical, mental or emotional disability that warrants the continuation of assistance. The adoptive parents or the adoptive child may appeal the Department's decision to discontinue adoption assistance at age 18 or 19 for a child still in high school.

j) The adoptive parent shall notify the Department as soon as practically possible in writing of a change in address or when the following changes occur which will affect the amount of adoption assistance:

- 1) the child is no longer the legal responsibility of the adoptive parent;
- 2) the child is no longer receiving financial support from the adoptive parent;
- 3) the child's condition has changed to the extent that, if the child were in foster care, an increase in the child's level of care would be required; or
- 4) a change has occurred in the circumstances of the family that is relevant in determining the amount of assistance payments. Such circumstances pertain to the parents' ability to incorporate the child into their household in relation to their standard of living, future plans and overall capacity to meet the immediate and future needs of the child.

k) The Department will provide a payment of \$3000 to be awarded to an adopted child under the following circumstances in the manner described:

- 1) In order to assist youth who have been adopted to make the transition to adulthood, the Department will provide a payment of \$3000 directly to the youth upon termination of his or her adoption subsidy.

2) The payment is intended to assist the child's transition to adulthood by helping pay for education, housing, or other forms of vocational training or employment assistance.

3) In order to be eligible for this payment, the child:

- A) must have been the legal responsibility of the Department prior to the adoption; and
 - B) must have been 14 to 18 years of age when adopted, during the time period of March 15, 2001 through June 30, 2002.
- 4) Children in adoptive placements within this time period who do not have their adoptions finalized by June 30, 2002 will not be eligible for this grant award.

5) The payment will be awarded directly to the child.

l*) If an adoption is dissolved because of the termination of the parental rights of the adoptive parents or the death of the adoptive parents, a child adopted with adoption assistance continues to be eligible for such assistance if he or she is adopted again on or after October 1, 1997.

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(Source: Amended at 25 Ill. Reg. 118213, effective AUG 31 2001)

Section 302.405 Subsidized Guardianship Program

a) Description. Subsidized guardianship is a program for which the Department has received waivers from the federal Department of Health and Human Services under Section 1130 of the Social Security Act to operate a child welfare demonstration project. The program offers a subsidized private guardianship arrangement for children for whom the permanency goals of return home and adoption have been ruled out as evidenced by an assessment documented in the service plan. The types of assistance that may be provided include:

- 1) payments of one-time court costs and legal fees, if required, in connection with the establishment of guardianship, up to a maximum of \$500;
- 2) payments for physical, emotional and mental health needs not wholly payable through insurance or other public resources that are associated with or result from a medical condition whose onset has been established as occurring prior to the transfer of guardianship. Such payments include medical benefits as provided under Title XIX of the Social Security Act (Medicaid) and include services such as physician and clinic fees, hospitalization costs, and prescriptions; and
- 3) ongoing monthly payments in an amount determined in each case by the Department in accordance with subsection (e) below:

- 4) an incentive payment of \$3000 for children 14 to 18 years of age, when guardianship with subsidized guardianship was awarded the private guardian during the time period of March 15, 2001 and June 30, 2002. For a further description of the purpose and terms of this payment, see subsection (f) of this Section.

b) When Subsidized Guardianship is Appropriate
Subsidized guardianship is a program available for only those children who meet the following criteria.

- 1) The child must have been in the legal custody of the State for two years or more immediately prior to establishing subsidized guardianship.
- 2) The child must have resided with the prospective private guardian (relative caregiver or non-relative licensed foster care provider) for at least one year immediately prior to establishing the subsidized guardianship. However, the one year placement requirement is not applicable for sibling groups when at least one sibling meets all other subsidized guardianship requirements.
- 3) A child living in the home of a non-relative must be at least 12 years of age. However, the age criteria is not applicable for sibling groups when at least one sibling meets all subsidized guardianship criteria. However, if a child younger than 12 years of age is living in the home of a non-relative and has no older

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sibling for whom subsidized guardianship is being considered, the caseworker must determine that subsidized guardianship is in the child's best interests due to the length of time the child has been in the home, the age of the child, characteristics, limitations, and responsibilities including health and mobility of the caretakers or the special needs of the child. The basis for the best interest decision must be documented, and must be approved by the Department Guardianship Administrator.

- 4) The child must have a strong attachment to the potential guardian and the guardian must have a strong commitment to the child.
- 5) Reunification efforts of the child with his or her family must have been ruled out despite reasonable efforts having been made to reunite the child with his or her parents as documented in the case record.
- 6) Adoption must have been ruled out as a permanency goal for the child.
- 7) The parents may consent to the subsidized guardianship arrangement or the Department may proceed, for good cause, to seek a private guardian without parental consent provided that notice is given of the guardianship petition hearing in accordance with Section 11-10.1(a) of the Probate Act [755 ILCS 5/11-10.1(a)].
- 8) A child 14 years of age or older must consent to the initiation of the subsidized guardianship living arrangement.
- 9) The prospective guardian must have no record of any felony convictions.
- c) Responsibilities of the Private Subsidized Guardian
 - 1) Private guardians are responsible for ensuring that parents have the opportunity to visit their children in accordance with the provisions/orders of the court.
 - 2) Private guardians shall notify the Department as soon as practically possible in writing when the following changes occur which may affect the amount of the subsidy:
 - A) the child is no longer the legal responsibility of the subsidized guardian;
 - B) the child is no longer receiving financial support from the subsidized guardian;
 - C) a change has occurred in the circumstances of the family that is relevant in determining the amount of assistance payments; or
 - D) there is a change of address.
- d) Responsibilities of Department
 - 1) Prior to approving a subsidized guardianship arrangement for a child, the Department shall determine whether subsidized guardianship is in the best interests of the child. In making that determination the Department shall, through an assessment, consider all relevant factors including but not limited to:
 - A) the wishes of the child's prospective subsidized guardian;

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- B) the wishes of the child under the age of 14 or the consent of the child, if over age 14;
 - C) the interaction and interrelationship of the child with the prospective subsidized guardian;
 - D) the child's adjustment to the present home, school, and community;
 - E) the child's need for stability and continuity of relationship with the prospective subsidized guardian; and
 - F) the mental and physical health of all individuals involved.
- 2) The Department shall ensure that the subsidized guardianship arrangement is a safe and suitable placement by means of a safety check which shall include a CANTS and LEADS check.
 - 3) The Department shall ensure that members of sibling groups are placed together, unless there is an explicit determination that they should not be placed together for the reasons described in 89 Ill. Adm. Code 301 (Placement and Visitation Services) when making placements under the subsidized guardianship program.
 - 4) The Department will offer short-term support services for foster care and relative home providers prior to and during subsidized guardianship. Services will include preliminary screening, assessment, assistance in applying for subsidized guardianship, and payment for one time only court costs and legal fees, if required.
 - 5) The Department shall provide children in the subsidized guardianship program with a full range of services under the Medicaid program which includes health care services and mental health care services.
 - 6) The Department shall ensure that an orientation is provided to the family of the subsidized guardian to assure that all family members understand the benefits and responsibilities of all the participants in the subsidized guardianship arrangement.
 - 7) The Department shall ensure that each prospective guardian has access to a caseworker who will respond to requests for information and assistance.
 - 8) The Department shall ensure that all guardians are provided access to fair hearings under 89 Ill. Adm. Code 337 (Service Appeal Process).
 - 9) The Department shall accept custody of the child in accordance with the Abused and Neglected Child Reporting Act [325 ILCS 5] if the guardian does not care for him or her to the extent the child's health or well-being is endangered.
 - 10) The Department shall provide financial assistance for these children in accordance with Section 302.405(e) (Subsidy for Subsidized Guardianship).
- e) Subsidy for the Subsidized Guardianship Program
 - 1) Although eligibility for a subsidy under the subsidized guardianship program shall be determined regardless of the financial circumstances of the prospective subsidized guardian;

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the types and amounts of assistance under each subsidized guardianship agreement shall be determined by the Department in the same manner as described for adoption assistance in Section 302.310(e) of this Part.

- 2) The subsidized guardianship agreement providing for ongoing monthly payments shall include an agreement with the subsidized guardian that the amount of any ongoing monthly payments shall be reviewed at least every two years or more frequently and may be readjusted annually or more frequently. The amounts of ongoing subsidized guardianship payments are subject to change based on changes in State or federal law regarding adoption assistance payments. Subsidized guardians may refuse any or all payments offered by the Department.
 - 3) A relative caregiver or licensed foster parent with a child determined to be eligible for the subsidized guardianship program shall be made aware of the availability of subsidized guardianship, the types of assistance available, the amount of payment, and, in the case of ongoing monthly subsidized guardianship payments, that such payments are subject to review at least every two years or more frequently and may be readjusted as set forth in subsection (e)(2) above. In order to receive a subsidized guardianship payment, the subsidized guardianship agreement must be signed prior to finalization of the transfer to private guardianship.
 - 4) The type, amount and duration of subsidized guardianship shall be agreed to in writing by the Department and the subsidized guardian prior to the finalization of the transfer to private guardianship, and shall be set forth in the subsidized guardianship agreement, which shall be binding on the parties to the agreement. The agreement shall also stipulate that the agreement shall remain in effect regardless of the state where the subsidized guardian resides currently or in the future and shall contain provisions for the protection of the interests of the child in cases where the subsidized guardian and child move to another state while the agreement is in effect. The duration of subsidized guardianship shall continue without further involvement by the court until termination when the child marries or dies, is emancipated, or reaches the age of 18 or 21 as specified in the agreement. The guardianship will also terminate upon the death, incapacity, resignation, or removal of the guardian.
 - 5) While guardianship is terminated under the Probate Act when a child reaches age 18, financial assistance may be provided through age 19 for a child still in high school or until age 21 for children with certain mental or physical handicapping conditions only.
- f) The Department will provide a payment of \$3000 to be awarded to a child placed in subsidized guardianship under the following

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circumstances in the manner described:

- 1) In order to assist youth who have been receiving subsidized guardianship to make the transition to adulthood, the Department will provide a payment of \$3000 directly to the youth upon termination of his or her subsidized guardianship subsidy.
- 2) The payment is intended to assist the child's transition to adulthood by helping pay for education, housing, or other forms of vocational training or employment assistance.
- 3) In order to be eligible for this payment, the child:
 - A) must have been the legal responsibility of the Department prior to the subsidized guardianship; and
 - B) must have been 14 to 18 years of age when guardianship was awarded to the private guardian during the time period of March 15, 2001 through June 30, 2002.
- 4) Children in subsidized guardianship within this time period who do not have their private guardianship finalized by June 30, 2002 will not be eligible for this grant award.
- 5) The payment will be awarded directly to the child.

g) Demonstration and Cost Neutrality Groups

Although participation in the subsidized guardianship program is Statewide, for purposes of meeting the cost neutrality, federal funding, and evaluation requirements of the federal waiver demonstrations, clients will be randomly assigned in three geographical areas of the State to a demonstration group or a cost neutrality group. The demonstration group will be subject to the waiver provisions of the demonstration, and the cost neutrality group will be subject to the regular treatment services according to the Department's rules and procedures. The three areas are:

 - 1) the Cook Central Region.
 - 2) the East St. Louis sub-region serving the following counties:
 - A) Madison;
 - B) St. Clair;
 - C) Bond;
 - D) Clinton;
 - E) Washington;
 - F) Monroe; and
 - G) Randolph.
 - 3) the Peoria sub-region serving the following counties:
 - A) Fulton;
 - B) Henderson;
 - C) Knox;
 - D) Warren;
 - E) Henry;
 - F) LaSalle;
 - G) McDonough;
 - H) Mercer;
 - I) Rock Island;
 - J) Tazewell;

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K) Woodford;
L) Peoria;
M) Bureau;
N) Marshall;
O) Putnam; and
P) Stark.

(Source: Amended at 25 Ill. Reg. 11821^m, effective
AUG 31 2001)

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Purchasing Card Program
- 2) Code Citation: 44 Ill. Adm. Code 1130
- 3) Section Numbers:

1130.10	<u>Proposed Action:</u>
1130.20	New Section
1130.30	New Section
1130.40	New Section
1130.50	New Section
1130.60	New Section
1130.70	New Section
- 4) Statutory Authority: Authorized and implementing Section 13.3 of the State Finance Act [30 ILCS 105/13.3].
- 5) Effective Date of Rules: September 7, 2001
- 6) Do these rules contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: December 29, 2000; 24 Illinois Register 18936.
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposed and final version: The Office of the Comptroller made only the technical, punctuation or grammar changes as agreed upon with JCAR. No substantive changes were made.
- 12) Have all of the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these rules replace any emergency rules currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: The adopted rules implement Section 13.3 of the State Finance Act [30 ILCS 105/13.3]. Section 13.3 authorizes the Comptroller to provide by rule for the use of purchasing cards by State agencies to pay for purchases that may otherwise be paid out of the agency's petty cash fund. The adopted rule specifies the process by which the contract for a purchasing card vendor shall be evaluated and awarded,

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the duties of State agencies participating in the program, and the compliance audit and certification requirements by which the participating agencies and the Office of the Comptroller shall monitor use of the cards.

16) Information regarding these adopted rules shall be directed to:

Whitney Wagner Rosen
Legislative Counsel
Office of the Comptroller
201 State Capitol
Springfield, Illinois 62706
217/782-0905

The full text of the adopted rules begins on the next page:

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TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XIV: COMPTROLLER

PART 1130

PURCHASING CARD PROGRAM

Section	
1130.10	Statutory Authority
1130.20	Definitions
1130.30	Contract Evaluation and Award
1130.40	Program Participation
1130.50	Duties of State Agencies
1130.60	Compliance Audit
1130.70	Compliance Certification

AUTHORITY: Section 13.3 of the State Finance Act [30 ILCS 105/13.3].

SOURCE: Adopted at 25 Ill. Reg. 118362, effective
SEP - 7 2001

Section 1130.10 Statutory Authority

- a) This Part establishes rules necessary to implement Section 13.3 of the State Finance Act [30 ILCS 105/13.3] relating to the use of purchasing cards by State agencies.
- b) This Part applies to all State agencies that seek to use a purchasing card under the authority of Section 13.3 of the Act.

Section 1130.20 Definitions

The following definitions shall be used in interpreting this Part:

"Act" means the State Finance Act [30 ILCS 105].

"Authorized purchase" means an acquisition where a participating agency authorizes an employee as a purchasing card user within cardholder setup limits and restrictions specified by the participating agency; where the merchant authorizes the transaction in accordance with established payment card association rules and regulations; and the participating agency receives the goods. In no event shall a cardholder's acquisition of services or travel expenses be an authorized purchase.

"Cardholder" means an individual designated by a participating agency in accordance with procedures established by CMS to be a purchasing card recipient and make authorized purchases.

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"CMS" means the Department of Central Management Services.

"Goods" means all tangible personal property.

"Participating agency" means a State agency that is enrolled in the purchasing card program pursuant to procedures established by CMS.

"Purchasing card program" means the program for State agencies' use of purchasing cards established under this Part.

"Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance.

"Single purchasing card transaction" means an individual occurrence of using a purchasing card issued under this Part to purchase any amount of goods.

"State agency" means any department, officer, authority, public corporation, quasi-corporation, commission, board, institution, State college or university, or other public agency created by the State, other than units of local government and school districts.

"Travel expense" means an expense incident to official travel.

Section 1130.30 Contract Evaluation and Award

- a) CMS shall solicit purchasing card vendors to provide for purchasing cards for use as authorized by this Part.
- b) CMS and the Comptroller shall jointly evaluate and make recommendations in regard to proposals submitted by purchasing card vendors in response to CMS' solicitation under this Section. CMS' and the Comptroller's joint considerations shall include but not be limited to:
 - 1) the purchasing card vendor's ability to provide both detailed transaction data as may be needed for State accounting purposes and overall purchase card program information as may be required by State agencies;
 - 2) the purchasing card vendor's ability to electronically interface detailed transaction data with the participating agencies' accounting and billing systems;
 - 3) the availability of discounts and rebates that the purchasing card vendor will provide the State;
 - 4) the cost to the State for the products and services provided by the purchasing card vendor;
 - 5) the impact of the purchasing card program on existing procurement practices and systems;

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- 6) the payment terms and late payment penalties the purchasing card vendor will require;
- 7) the purchasing card vendor's ability to provide card limits and restrictions as may be required by participating agencies;
- 8) the purchasing card vendor's proposed program for liability of unauthorized card use;
- 9) the purchasing card vendor's proposed agency enrollment, implementation and account maintenance processes; and
- 10) the location and number of suppliers that accept the purchasing card.
- c) As recommended by CMS and the Comptroller as a result of their joint evaluation process, CMS shall award contracts to purchasing card vendors to provide for purchasing cards for use as authorized by this Part.

Section 1130.40 Program Participation

- a) CMS will establish procedures governing:
 - 1) the enrollment and responsibilities of State agencies participating in the purchasing card program under this Part; and
 - 2) participating agencies' issuance of purchasing cards to cardholders under this Part.
- b) Procedures adopted by CMS shall require each potential cardholder, prior to card issuance, to certify that:
 - 1) the cardholder shall use the purchasing card for authorized purchases only; and
 - 2) the cardholder shall accept liability for all unauthorized purchases.

Section 1130.50 Duties of State Agencies

- a) State agencies may participate in the purchasing card program in accordance with this Part and the procedures established by CMS.
- b) A participating agency may use purchasing cards to pay for purchases of goods in accordance with this Part. A single purchasing card transaction shall not be greater than \$500. Purchasing cards shall not be used for the procurement of services or travel expenses.
- c) Each participating agency shall process payments to the purchasing card vendor as provided in the uniform accounting system developed by the Comptroller.
- d) Each participating agency shall develop and implement internal standards and procedures that will permit full compliance with the provisions of this Part, the Comptroller's uniform accounting system, and procedures established by CMS under this Part.
- e) Each participating agency shall maintain detailed documentation regarding its purchasing card transactions in accordance with the State Records Act [5 ILCS 160].

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Section 1130.60 Compliance Audit

The Internal Auditor of each participating agency shall annually perform an audit of the purchasing card program as implemented by the participating agency.

Section 1130.70 Compliance Certification

a) The Comptroller shall establish standards for an annual certification to be provided to the Comptroller and the Auditor General by the Agency Head of each participating agency prior to use of purchasing cards by the participating agency cardholders and annually thereafter. The certification shall establish that:

- 1) sufficient internal controls exist to insure appropriate use of the purchasing card by the participating agency's cardholders;
- 2) proper segregation of duties are in place regarding the reporting and accounting of purchasing cards;
- 3) the participating agency maintains an adequate pre-audit and post-audit function; and
- 4) the participating agency has appropriately addressed any findings identified by an internal or external audit relating to the participating agency's purchasing card program.

b) The Comptroller shall refuse to issue payment of purchasing card transactions made by cardholders of a participating agency unless a current certification by the participating agency's Agency Head, as required by subsection (a) of this Section, is on file with the Comptroller.

c) The Comptroller may inspect and audit the records and supporting documentation that the participating agencies maintain and that relate to the purchasing card program established under this Part.

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1) Heading of the Part: Assessment for Determining Eligibility and Rehabilitation Needs

2) Code Citation: 89 Ill. Adm. Code 553

3) Section Numbers:

Adopted Action:
 553.10 Repealed
 553.20 Amendment
 553.25 Added
 553.30 Amendment
 553.31 Added
 553.32 Added
 553.35 Amendment
 553.40 Amendment
 553.50 Amendment
 553.60 Repealed
 553.70 Repealed
 553.75 Repealed
 553.76 Repealed
 553.100 Amendment
 553.110 Repealed
 553.120 Repealed
 553.130 Amendment
 553.140 Amendment
 553.150 Amendment

4) Statutory Authority: Implementing and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

5) Effective Date of Amendments: August 31, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: May 11, 2001, 25 Ill. Reg. 5980 (issue date)

10) Has JCAR Issued a Statement of Objection to these amendments: No

11) Differences between proposal and final version: In Section 553.140(c), changed "with the exception that" to "and". In Section 553.150(a)(4), struck "which" and added "that".

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12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace any emergency amendments currently in effect? NO

14) Are there any amendments pending on this Part: NO

15) Summary and Purpose of Rulemaking: This rulemaking revises and rearranges this Part to reflect the new federal regulations on eligibility for VR services and the use to trial work. The order of the Part has been changed to reflect the order of actions to be taken to determine eligibility.

16) Information and questions regarding this adopted rulemaking shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

The full text of adopted amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 553

ASSESSMENT FOR DETERMINING ELIGIBILITY AND
REHABILITATION NEEDS

Section	
553.10	General Applicability (Repealed)
553.20	Basis for the Determination of Eligibility
553.25	Disability Documentation
553.30	Presumption of Benefit from Vocational Rehabilitation Services
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553.80	Extended Evaluation (Repealed)
553.90	Outcome of Extended Evaluation (Repealed)
553.100	Assessment of Rehabilitation Needs
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553.110	Outcome of the Assessment of Rehabilitation Needs (Repealed)
553.120	Change in Eligibility Status (Repealed)
553.130	Order of Selection
553.140	Criteria for Significant Disability and Most Significant Disability
553.150	Determination of Serious Limitation to Functional Capacities

AUTHORITY: Implementing and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Emergency rules adopted at 17 Ill. Reg. 11657, effective July 1, 1993, for a maximum of 150 days; adopted at 17 Ill. Reg. 20346, effective November 15, 1993; amended at 19 Ill. Reg. 1834, effective February 6, 1995; amended at 19 Ill. Reg. 10149, effective June 29, 1995; amended at 19 Ill. Reg. 15730, effective November 7, 1995; emergency amendment at 20 Ill. Reg. 10385, effective July 19, 1996, for a maximum of 150 days; emergency expired on December 15, 1996; emergency amendment at 20 Ill. Reg. 11974, effective August 16, 1996, for a maximum of 150 days; emergency expired on January 13, 1997; amended at 21 Ill. Reg. 1386, effective January 17, 1997; amended at 21 Ill. Reg. 2669, effective February 10, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 1368, effective January 14, 1999; emergency

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amendment at 23 Ill. Reg. 6544, effective May 17, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 12440, effective September 28, 1999; amended at 23 Ill. Reg. 13222, effective October 18, 1999; amended at 25 Ill. Reg. 11842, effective AUG 31 2001.

Section 553.10 General Applicability (Repealed)

The Rules contained in this Part are applicable to all customers of the Department of Human Services Office of Vocational Rehabilitation Services (DHS-ORS) Vocational Rehabilitation (VR) Program.

(Source: Repealed at 25 Ill. Reg. 11842, effective AUG 31 2001)

Section 553.20 Basis for the Determination of Eligibility

An individual shall be determined to be eligible to receive services through the VR Program if he/she:

- a) is an individual who has a disability as determined pursuant to Title II and Title XVI of the Social Security Act (42 USC 401 et seq. and 1381 et seq.) and desires to achieve an employment outcome wants to work and can benefit from VR services; or
- b) is an individual who meets all of the following:

- 1) is determined by qualified personnel to have a physical or mental impairment that constitutes or results in a substantial impediment to any employment with a disability as defined in Section 6(20)(A) of the Rehabilitation Act of 1973 (29 USC 705 et seq.) as amended (Act); Pursuant to the Act, to be an individual with a disability, an individual must have a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and who can benefit from vocational rehabilitation services in terms of an employment outcome;
- 2) is determined by a qualified vocational rehabilitation counselor employed by DHS-ORS to require vocational rehabilitation services to prepare for, secure, retain, or regain employment consistent with the customer's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice who requires VR services to prepare for, secure, retain or regain employment; and
- 3) is presumed to be able to benefit from vocational rehabilitation services in terms of an employment outcome who meets the priority for services established under the DHS-ORS Order of Selection in Section 553.130.

(Source: Amended at 25 Ill. Reg. 11842, effective AUG 31 2001)

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Section 553.25 Disability Documentation

Acceptable information for the purpose of documenting disability shall be one of the following:

- a) existing available medical records;
 - b) existing available acceptable psychological or psychiatric records;
 - c) verification of receipt of Supplemental Security Income or Social Security Disability Income awarded on the basis of disability;
 - d) verification that the individual is receiving, or has within the last year received, services through a special education program;
 - e) any other verification that the individual has been determined by another educational or governmental agency to be an individual with a disability;
 - f) records provided by the individual or the individual's family or guardian; or
 - g) a case note entry reflecting the counselor's professional knowledge of the customer's disability.
- Additional information may be obtained at anytime the counselor deems it necessary to determine disability.

(Source: Added at 25 Ill. Reg. 11842, effective AUG 31 2001)

Section 553.30 Presumption of Benefit from Vocational Rehabilitation Services

- a) Any individual who is determined to be an individual with a disability is shall be presumed to be able to benefit from VR services and capable of achieving in terms of a successful employment outcome. This presumption shall continue unless DHS-ORS can demonstrate through clear and convincing evidence that the individual is incapable of benefitting from VR services and becoming successfully employed in terms of a successful employment outcome.
- b) Prior to the determination that the individual is incapable of benefitting from VR services because of the significance of the disability, the individual he/she must be provided undergo a period of trial work pursuant to 89 Ill. Adm. Code 553.3175.

(Source: Amended at 25 Ill. Reg. 11842, effective AUG 31 2001)

Section 553.31 Trial Work Experiences

- a) DHS-ORS shall provide trial work experience by conducting explorations of a customer's abilities, capabilities and capacity to perform in realistic work situations. Trial work experience shall include one or more work settings and be of sufficient variety and over a sufficient period of time to determine whether the individual can or cannot benefit from VR services. Trial work experiences may include

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supported employment, on-the-job training and other experiences using realistic work settings in the most integrated settings possible. Other examples may include internships, job shadowing, structured volunteer experiences in real work settings and community-based assessments.

- b) Under limited circumstances, if an individual cannot take advantage of other trial work experiences, or if options for trial work experiences have been exhausted before the determination of eligibility has been made, DHS-ORS shall conduct an extended evaluation to make the determination.
- c) DHS-ORS shall develop a written Trial Work Plan to periodically assess the individual's abilities, capabilities and capacity to perform in trial work experiences.
- d) During the time that the trial work experience is being provided, DHS-ORS shall provide appropriate support services to accommodate the vocational rehabilitation needs of the individual.
- e) The trial work experience must be undertaken consistent with the informed choice and rehabilitation needs of the individual.
- f) The trial work experience of the individual shall continue until one of the outcomes described in Section 553.32 is met.

(Source: Added at 25 Ill. Reg. 11842, effective AUG 31 2001)

Section 553.32 Outcome of Trial Work Experience

Trial work experience shall be provided to the individual over a sufficient period of time to determine that:

- a) there is sufficient evidence to conclude the individual can benefit from VR services in terms of an employment outcome; or
- b) there is clear and convincing evidence that the individual is incapable of benefitting from VR services in terms of an employment outcome due to the significance of the individual's disability.

(Source: Added at 25 Ill. Reg. 11842, effective AUG 31 2001)

Section 553.35 Services to Non-United States Citizens

DHS-ORS will provide services through its VR program to an individual who is not a citizen of the United States provided that:

- a) the individual holds a proper visa or certification from the Immigration and Naturalization Service (INS) to allow him/her to be employed while in the United States;
- b) all other eligibility criteria described in this Part are met; and
- c) the individual is expected to remain in the United States for a period of not less than 90 days after the completion of services listed on the customer's IPE (89 Ill. Adm. Code 572) and can be expected to be

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employed during this period.

(Source: Amended at 25 Ill. Reg. 11842, effective AUG 31 2001)

Section 553.40 Eligibility Determination Time Frames

After receiving a completed application for VR services, DHS-ORS shall make an eligibility determination and determine the individual's priority to receive services under the Order of Selection within a reasonable time period, not to exceed 60 calendar days from the date the individual applies for services unless:

- a) DHS-ORS notifies the individual that exceptional and unforeseen circumstances beyond DHS-ORS control preclude DHS-ORS from completing a timely determination and the individual agrees to an extension; or
- b) DHS-ORS determines, on the basis of the criteria set forth at 89 Ill. Adm. Code 553.30, that a period of trial work is necessary pursuant to 89 Ill. Adm. Code 553.3175.

(Source: Amended at 25 Ill. Reg. 11842, effective AUG 31 2001)

Section 553.50 Outcome-of-the Eligibility Determination

Prior to the end of the eligibility determination period (i.e., 60 days), one of the following must occur:

- a) the customer has been determined to be eligible to receive VR services and has a disability that which will allow services to be provided under the Order of Selection and has an employment outcome consistent with the customer's strengths, resources, priorities, concerns, abilities, capabilities, interest, and informed choice. At this time a Certification of Eligibility shall be completed. The customer will then undergo an Assessment of Rehabilitation-Needs pursuant to Section 553.100 of this Part;
- b) the customer is determined eligible but not to have a disability that which allows services to be provided under the Order of Selection. The customer will be offered the option to have his/her name placed on a waiting list to wait until services can be provided to the priority category established under the Order of Selection or to have his/her case closed. The customer shall be referred to other agencies that can provide services, i.e., a comprehensive one-stop center, a private rehabilitation agency, a community rehabilitation program, a Center for Independent Living, etc.;
- c) a trial work period is determined to be necessary. The Written Trial Work Plan A-Certification-of-Trial-Work shall be completed and the trial work shall begin;
- d) the customer does not meet the required eligibility criteria (see Section 553.20). 7-because-of-lack-of-a-disability-is-determined--to

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- be--ineligible--to--receive--services. A Certification of Ineligibility shall be completed and the individual's case closed; OR the customer's case is closed for reasons other than ineligibility (e.g., the customer has refused services or further services from DHS-ORS, the customer cannot be located).¹⁷ or
- f) the customer's case is closed as he/she is determined--ineligible--to receive--services--due--to--the--fact--he/she--does--not--meet--the--required criteria--(see--89--Ill--Adm--Code--553-20).

(Source: Amended at 25 Ill. Reg. 11842, effective AUG 31 2001)

Section 553.60 Documentation of Eligibility Factors/Preliminary Assessment (Repealed)

Eligibility shall be assessed, to the maximum extent possible, and practical, from existing medical and psychological records. Acceptable information for the purpose of verification of eligibility factors shall be:

- a) available medical records;
- b) available acceptable psychological or psychiatric records (see 89-Ill-Adm-Codes-553-120);
- c) verification of receipt of Supplemental Security Income awarded on the basis of disability;
- d) verification of receipt of Social Security Disability Income benefits awarded to the individual as a result of his/her disability;
- e) verification that the individual is receiving or has within the last year received services through a special education program; or
- f) any other verification that the individual has been determined by another educational or governmental agency to be an individual with a disability. Additional medical, psychological and psychiatric information shall be obtained only when there is no existing information on which to base the determination of eligibility, or there is conflict between existing records, or when a counselor has reason to question whether the record accurately reflects the current medical or psychological condition.

(Source: Repealed AUG 31 2001 at 25 Ill. Reg. 11842, effective)

Section 553.70 Certification of Eligibility (Repealed)

At any time during the eligibility determination process, but no later than 60 days from the date of a customer's application for services, except as provided in Section 553-40 of this Part, a Certification of Eligibility, pursuant to 89-Ill-Adm--Code--553-48, shall be completed unless an agreement to extend the eligibility period is signed by the customer and the counselor or a period of trial work (89-Ill-Adm--Code--553-75) is determined to be necessary. The Certification of Eligibility shall document the customer's disability and

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the customer's need for VR services to reach an employment outcome. (Source: Repealed at 25 Ill. Reg. 11842, effective AUG 31 2001)

Section 553.75 Trial Work (Repealed)

- a) If it is likely, based on initial documentation, that an individual's disability is too significant for that individual to benefit from VR services, in terms of an employment outcome, the individual must undergo a period of trial work. DHS/ORS may not deny the individual access to services unless DHS/ORS can prove through clear and convincing evidence that the individual is incapable of benefiting from VR services and unable to achieve a successful employment outcome.

- b) Trial work is the exploration of a customer's abilities, capabilities and capacity to perform in work situations with at least two work opportunities over a mutually agreed period of time. Trial work opportunities may consist of work experiences and training. The customer's inability to take advantage of such opportunities shall be clear and convincing evidence that the customer cannot benefit in terms of employment outcomes due to the significance of the customer's disabilities.

(Source: Repealed AUG 31 2001 at 25 Ill. Reg. 11842, effective)

Section 553.76 Outcome of Trial Work (Repealed)

If trial work was being used to determine if an individual's disability was too significant to benefit from VR services in terms of an employment outcome, and:

- a) DHS-ORS is unable to demonstrate through clear and convincing evidence that the individual cannot benefit, he/she shall be presumed to be able to benefit from services (89-Ill-Adm--Code--553-30) and shall be certified as eligible to receive VR services; or
- b) clear and convincing evidence is in the case file documenting the individual is not capable of benefiting from VR services, a Certification of Ineligibility shall be completed that includes a summary and rationale for the determination based on the information gathered during the trial work.

(Source: Repealed at 25 Ill. Reg. 11842, effective AUG 31 2001)

Section 553.100 Assessment of Rehabilitation Needs

- a) If a customer is determined eligible to receive VR services (89 Ill. Adm. Code 553.50(a)), the Assessment form of Rehabilitation Needs

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~~Summary (Assessment)~~ shall be completed.

- b) A major component of the Assessment shall be the determination of the employment outcome. The choice of the employment outcome shall involve the customer and take the customer's interests into consideration, as well as career counseling provided to and with the customer by the counselor regarding labor market trends and training requirements. The employment outcome should be consistent with the customer's unique strengths, priorities, concerns, abilities, capabilities, career interests and informed choice. The employment outcome chosen by the customer should be supported by the counselor unless the Assessment clearly contraindicates the customer's choice.
- c) The purpose of the Assessment is to determine the vocational rehabilitation services needed to achieve the employment outcome.
- d) The scope of the Assessment shall be limited to that which is necessary to identify the vocational rehabilitation services needed by the customer and to develop the customer's Individualized Plan for Employment (IPE) (89 Ill. Adm. Code 572). To the maximum extent possible, the information used shall be existing information, as well as and information available from the customer and, where appropriate, from the customer's family.

(Source: Amended at 25 Ill. Reg. 118423, effective AUG 31 2001)

Section 553.110 Outcome of the Assessment of Rehabilitation Needs (Repealed)

~~The Assessment Summary shall be completed by the counselor and filed in the case file when it is determined by the counselor that enough information has been gathered during the Assessment to adequately determine and plan the VR services necessary to ensure the individual a successful employment outcome. The Assessment Summary shall reflect the customer's unique strengths, resources, priorities and interests needed to identify the nature and scope of services and the specific services that are expected to be necessary to assist the customer in achieving an employment outcome.~~

(Source: Repealed at 25 Ill. Reg. 118423, effective AUG 31 2001)

Section 553.120 Change in Eligibility Status (Repealed)

~~If at any time during the eligibility process or Assessment, the customer's condition changes to the extent he/she is no longer considered to have a disability, all case activity shall cease. A Certificate of Ineligibility shall be completed and the customer's VR case closed. Customers have the right to request a review of this determination under the procedures of 89 Ill. Adm. Code 510 Appeals and Hearings.~~

(Source: Repealed at 25 Ill. Reg. 118423, effective

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AUG 31 2001)

Section 553.130 Order of Selection

- a) Pursuant to the provisions of the Rehabilitation Act of 1973, as amended (29 USC 701 et seq.), DHS-ORS has established the following Order of Selection for the priority of provision of services to eligible individuals, which counselors must follow when serving purchasing services for customers:

- 1) those individuals determined to have the most significant disabilities;
 - 2) those individuals determined to have significant disabilities; and
 - 3) individuals determined to have disabilities.
- b) For the purposes of administering services under the Order of Selection, DHS-ORS has determined that current funding levels allow services to be provided to eligible individuals in the categories established in subsections (a)(1) and (2) above.
- c) Eligible individuals in subsection (a)(3) above may choose to at his/her choice be placed on a waiting list for services. (See Section 553.50(b).) The waiting list will be maintained by DHS-ORS and services offered if the Associate Director of DHS-ORS or designee determines funding is available to provide services to all other individuals with disabilities.
- d) An individual who was determined eligible and began to receive services before the effective date of this amendatory rulemaking or is determined eligible and begins to receive services thereafter will be eligible to continue to receive services until completion of his/her rehabilitation program, regardless of changes made by DHS-ORS to its Order of Selection or priority of services.
- e) Once an eligible individual is assigned to a specific priority of service category, his/her category assignment may be changed to a higher priority category if justified based on new information relating to his/her disability and documented in the customer's case file, but shall not be moved to a category of lower priority except as described in Section 553.120 of this Part.

(Source: Amended at 25 Ill. Reg. 118423, effective AUG 31 2001)

Section 553.140 Criteria for Significant Disability and Most Significant Disability

- a) Documentation of the determination that the individual has a significant disability or a most significant disability must be in the individual's VR case file, stated and justified in the Assessment Summary (89 Ill. Adm. Code 553.70 and 89 Ill. Adm. Code 553.110) based on the following information:

- a) An individual who has been determined pursuant to Title II (SSDI) or

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Title XVI (SSI) to be eligible for disability benefits shall be considered an individual with a significant disability.

- b) To be considered an individual with a most significant disability in determining priority for services under the Order of Selection (Section 553.150) in this Part, the individual must meet all of the criteria listed in subsection (c) below, with the exception that the customer's disability must seriously limit two or more of the functional capacities as listed in Section 553.150 of this Part.

b)(c) Otherwise to be considered an individual with a significant disability, the individual to determine priority of services under the Order of Selection (Section 553.150) he/she must have a disability that which is determined by the rehabilitation counselor/instructor to meet all four of the following criteria:

- 1) The significant disability seriously limits at least one of the individual's functional capacities, as listed in Section 553.150 of this Part;

2) The individual has a disability or combination of disabilities determined by an evaluation of rehabilitation potential to cause a substantial physical or mental impairment similar but not limited to the following list of disabilities:

- A) amputation,
- B) arthritis,
- C) autism,
- D) blindness,
- E) burn injury,
- F) cancer,
- G) cerebral palsy,
- H) cystic fibrosis,
- I) deafness,
- J) head injury,
- K) heart disease,
- L) hemiplegia,
- M) hemophilia,
- N) respiratory or pulmonary dysfunction,
- O) mental retardation,
- P) mental illness,
- Q) multiple sclerosis,
- R) muscular dystrophy,
- S) musculo-skeletal disorders,
- T) neurological disorders (including stroke and epilepsy),
- U) paraplegia,
- V) quadriplegia (and other spinal cord conditions),
- W) sickle cell anemia,
- X) specific learning disabilities, or
- Y) end stage renal failure disease.

- 3) The individual requires two or more VR services to ensure the individual a successful employment outcome; and, Multiple services are defined as core VR services, counseling, and

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guidance, physical restoration, training, and placement and are listed in the customer's IPE.

- 4) VR services will be required over an extended period of time which is 6 months or more. The time period begins with the implementation of the IPE.

c) To be considered an individual with a most significant disability, the individual must meet all of the criteria listed in subsection (a) or (b), and the customer's disability must seriously limit two or more of the functional capacities, listed in Section 553.150 of this Part.

d) An individual may also be considered an individual with a significant disability if the individual has been determined pursuant to Title XX (SSDI) or Title XVI (SSI) to be eligible for disability benefits.

(Source: Amended at 25 Ill. Reg. 11842, effective AUG 31 2001)

Section 553.150 Determination of Serious Limitation to Functional Capacities

a) For the purpose of determination of significant and most significant disabilities, functional capacities shall include:

- 1) mobility - the ability of an individual to move from place to place and move the body into certain positions (e.g., walking, climbing, kneeling, stooping, sitting, standing);
- 2) self-care - the ability of an individual to perform activities related to his/her health and hygiene (e.g., grooming, bathing, eating, house keeping, medical management, money management);
- 3) self-direction - the ability of an individual to control and regulate his/her own personal, social, and work life (i.e., maintain schedules and routines, follow directions and established rules, organizational skills, etc.);
- 4) work skills - the ability of an individual to perform jobs that which exist in the current employment market, regardless of demand for the particular occupation (e.g., learn and maintain work skills, cooperate with others in a work setting, use adequate decision making and problem solving skills);
- 5) work tolerance - the ability of an individual to consistently and adequately perform a job based on the job's physical, emotional, environmental, and psychological demands of the position (e.g., performance on the job is not adversely affected by changes in environment such as cold and heat, has the strength and endurance to perform the job in question);
- 6) interpersonal skills - the ability of an individual to establish and maintain appropriate relationships with other individuals in the work place (e.g., necessary communications, appropriate and acceptable behavior, ability to cooperate in a team setting, understanding, tact); and
- 7) communication - the ability to convey and receive information efficiently and effectively (e.g., ability to hear and understand

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ordinary spoken language; ability to make one's self understood in ordinary conversation; ability to write or print short notes and communications; and ability to read and correctly interpret short notes, signs, and instructions).

- b) A serious limitation to a functional capacity shall exist when it is determined by the rehabilitation counselor/instructor that the customer, because of his/her disability, has functional limitations in performing the major components of the activity or activities listed in subsections (a)(1) through (7) above or needs accommodation to perform the activity.

(Source: Amended at 25 Ill. Reg. 11842, effective AUG 31 2001)

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- 1) Heading of the Part: Food Stamps
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) Section Numbers: Adopted Action:
121.57 Amendment
121.58 Amendment
121.93 Amendment
- 4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].
- 5) Effective Date of Amendments: August 31, 2001
- 6) Do these amendments contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 20, 2001, 25 Ill. Reg. 5559
- 10) Has JCAR Issued a Statement of Objection to these amendments? No
- 11) The Differences between proposal and final version:
In Section 121.57(c), strike "1984" and add "2001".
In Section 121.58(i)(7), change "the equity value of one licensed vehicle for each adult household member" to "one licensed vehicle per household".
In Section 121.58(i), added "10) any vehicle if the net proceeds would total less than \$1500 if sold; and".
In Section 121.58(i), strike "10)" and add "11)".
In Section 121.58(i)(11), delete "; and" and reinstate the period.
In Section 121.58(j), strike "an" and add "a".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
FOOD STAMPS

SUBPART A: APPLICATION PROCEDURES

Section

- 121.1 Application for Assistance
- 121.2 Time Limitations on the Disposition of an Application
- 121.3 Approval of an Application and Initial Authorization of Assistance
- 121.4 Denial of an Application
- 121.5 Client Cooperation
- 121.6 Emergency Assistance
- 121.7 Expedited Services
- 121.10 Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.18 Work Requirement
- 121.19 Ending a Voluntary Quit Disqualification (Repealed)
- 121.20 Citizenship
- 121.21 Residence
- 121.22 Social Security Numbers
- 121.23 Work Registration/Participation Requirements
- 121.24 Individuals Exempt From Work Registration Requirements
- 121.25 Failure to Comply with Work Provisions
- 121.26 Period of Sanction
- 121.27 Voluntary Job Quit/Reduction in Work Hours
- 121.28 Good Cause for Voluntary Job Quit/Reduction in Work Hours
- 121.29 Exemptions from Voluntary Quit/Reduction in Work Hour Rules

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.30 Unearned Income
- 121.31 Exempt Unearned Income
- 121.32 Education Benefits
- 121.33 Unearned Income In-Kind
- 121.34 Lump Sum Payments and Income Tax Refunds
- 121.40 Earned Income
- 121.41 Budgeting Earned Income
- 121.50 Exempt Earned Income
- 121.51 Income from Work/Study/Training Programs
- 121.52 Earned Income from Roomer and Boarder

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effect? No

14) Are there any amendments pending on this Part: Yes

Section Numbers	Proposed Action	Illinois Register Citation
121.42	Amendment	25 Ill. Reg. 5175
121.55	Amendment	25 Ill. Reg. 5175
121.151	Amendment	25 Ill. Reg. 6003
121.63	Amendment	25 Ill. Reg. 3707

15) Summary and Purpose of Amendments: The Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 2001 allows states to use the State vehicle standards for TANF to be used for food stamps. This will simplify the eligibility determination and will allow more households to participate in the food stamp program.

This rulemaking also eliminates paper food stamp issuances and requires food stamp benefits to be issued through the Illinois Link system.

16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
217/785-9772

The full text of adopted amendments begins on the next page:

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121.53 Income From Rental Property
121.54 Earned Income In-Kind
121.55 Sponsors of Aliens
121.57 Assets
121.58 Exempt Assets
121.59 Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section

121.60 Net Monthly Income Eligibility Standards
121.61 Gross Monthly Income Eligibility Standards
121.62 Income Which Must Be Annualized
121.63 Deductions From Monthly Income
121.64 Food Stamp Benefit Amount

SUBPART E: HOUSEHOLD CONCEPT

Section

121.70 Composition of the Assistance Unit
121.71 Living Arrangement
121.72 Nonhousehold Members
121.73 Ineligible Household Members
121.74 Strikers
121.75 Students
121.76 Households Receiving AFDC, SSI, Interim Assistance and/or GA -
Categorical Eligibility

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section

121.80 Fraud Disqualification (Renumbered)
121.81 Initiation of Administrative Fraud Hearing (Repealed)
121.82 Definition of Fraud (Renumbered)
121.83 Notification To Applicant Households (Renumbered)
121.84 Disqualification Upon Finding of Fraud (Renumbered)
121.85 Court Imposed Disqualification (Renumbered)
121.90 Monthly Reporting and Retrospective Budgeting (Repealed)
121.91 Monthly Reporting (Repealed)
121.92 Retrospective Budgeting
121.93 Issuance of Food Stamp Benefits
121.94 Replacement of the EBT Card or Food Stamp Benefits
121.95 Restoration of Lost Benefits
121.96 Uses For Food Coupons
121.97 Supplemental Payments
121.98 Client Training for the Electronic Benefits Transfer (EBT) System
121.105 State Food Program (Repealed)
121.107 New State Food Program

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121.120 Recertification of Eligibility
121.130 Residents of Shelters for Battered Women and their Children
121.131 Fleeing Felons and Probation/Parole Violators
121.135 Incorporation By Reference
121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
121.145 Quarterly Reporting

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section

121.150 Definition of Intentional Violations of the Program
121.151 Penalties for Intentional Violations of the Program
121.152 Notification To Applicant Households
121.153 Disqualification Upon Finding of Intentional Violation of the Program
121.154 Court Imposed Disqualification

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section

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AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; peremptory amendment at 7 Ill. Reg. 16067, effective November

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18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with no substantive change) at 8 Ill. Reg. 17898; peremptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; peremptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg.

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15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; emergency amendment at 23 Ill. Reg. 13253, effective October 13, 1999, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 3871, effective February 24, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 4180, effective March 2, 2000; amended at 24 Ill. Reg. 10198, effective June 27, 2000; amended at 24 Ill. Reg. 15428, effective October 10, 2000; emergency amendment at 24 Ill. Reg. 15468,

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effective October 1, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 845, effective January 5, 2001; amended at 25 Ill. Reg. 2423, effective January 25, 2001; emergency amendment at 25 Ill. Reg. 2439, effective January 29, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 3707, effective March 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 7720, effective June 7, 2001; amended at 25 Ill. Reg. 11856, effective AUG 31 2001.

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section 121.57 Assets

- a) The value of nonexempt assets shall be considered in determining eligibility.
- b) Value of Nonexempt Assets
- 1) The value of nonexempt assets is the equity value (fair market value less the amount owed), except for ~~licensed vehicles and~~ prepaid funeral agreements valued over \$1500.00.
 - 2) The Department considers the following assets in determining eligibility:

A) Liquid Assets

i) Liquid assets are those properties in the form of cash or other financial instruments which are convertible to cash, such as, but not limited to, cash on hand, money, in checking or savings accounts, credit union accounts, savings certificates, stocks or bonds, lump-sum payments, prepaid funeral agreements, IRAs and Keogh Plans that do not involve a contractual relationship with someone who is not a member of the same food stamp household.

ii) The amount of the Keogh Plan or IRA to be counted as an asset is the total value minus any amount that would be lost for early withdrawal. The amount considered is the amount the individual would receive if the account were closed. An individual (one-person) Keogh Plan is the nonexempt asset. However, the Keogh Plan involving a household member and someone who is not a member of the same food stamp household is exempt unless the client can make withdrawals from the account without affecting the other individual or individuals.

B) Nonliquid Assets

Nonliquid assets are those properties which are not in the form of cash or other financial instruments, such as personal property, licensed vehicles, unlicensed vehicles, buildings, land, recreational properties, and any other property not specifically exempted in Section 121.58.

C) Assets of Sponsors of Aliens

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Consider the assets of the sponsor and the sponsor's spouse who sponsored an alien on or after February 1, 1983 (7 CFR 272.1(g)(54)(2001 #984)) in accordance with Section 121.55.

- D) Licensed Vehicles: The Department shall consider the fair market value of a licensed vehicle in excess of \$4650 unless exempted as stated in Section 121.50. The Department shall consider the equity value of a licensed vehicle unless exempted as stated in Section 121.58. If both equity value and excess fair market value are considered, the Department shall use the value which is greater. If the Department shall assign fair market values of licensed vehicles determined by the value of those vehicles as listed in the National Automobile Dealers Association (NADA) - Used Car Guide (1984) - The fair market values shall be updated every six months.

E) Prepaid Funeral Agreements

The value of prepaid funeral agreements over \$1500.00 per person is considered.

(Source: Amended at 25 Ill. Reg. 11856, effective AUG 31 2001)

Section 121.58 Exempt Assets

- a) Homestead Property
- 1) The home and surrounding property which, exclusive of public rights of way, is not separated from the home by intervening property owned by others.
 - 2) Homes which are temporarily unoccupied for reasons of employment, training for future employment, illness, or inability caused by casualty or natural disaster, remain exempt if the household intends to return.
 - 3) A lot owned or being purchased by the household if the household intends to build or is building a permanent home and the household does not currently own a home.
- b) Personal Property
- Household goods, personal effects, one burial plot per household member, and the cash value of life insurance policies and pension plans except Individual Retirement Accounts (IRA's) and Keogh plans which do not involve a household member in a contractual relationship with someone who is not a member of the same food stamp household. If the Keogh plan involves a member of the household and someone who is not a member of the same food stamp household, it is exempt unless the client can withdraw funds from the plan without affecting the other individual or individuals.
- c) Income Producing Property
- 1) Property which is annually producing income consistent with its fair market value (including land or buildings being sold by

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- 2) installment contract), even if only used on a seasonal basis. Property which is essential to the employment or self-employment of a household member, such as, farmland and work related equipment (tools of a tradesman, farm machinery). In the case of farm property (including land, equipment, and supplies) that is essential to the self-employment of a household member in a farming operation, the value of such property shall be excluded from financial resources until the expiration of the one year period beginning on the date such member ceases to be self-employed in farming.
- 3) A rental home which is used by a household for vacation purposes at sometime during the year is an asset, unless excluded by subsection (c)(1) of this Section.

d) Disaster Relief Payments

Disaster relief payments provided by federal, state or local government or a disaster assistance organization.

e) Inaccessible Assets

Assets whose cash value is not accessible to the household, such as but not limited to:

- 1) irrevocable trust funds,
 - 2) security deposits on rental property and utilities,
 - 3) property in probate,
 - 4) real property when a good faith effort is being made to sell at a reasonable price,
 - 5) jointly owned assets which cannot be practically subdivided and are accessible only with the consent of the joint owner who refuses to give that consent,
 - 6) non-liquid asset or assets (see Section 121.57(b)(2)(B)) which have a lien against it as a result of a business loan and the household is prohibited by the security or lien agreement from selling the asset or assets,
 - 7) monies received from the Social Security Administration under the PASS Program that are held in a separate account, or
 - 8) an asset if when sold or otherwise disposed of would net the household less than \$1500. \$1000-for-less-than-\$1500-if-there-is-a-person-age-60-or-older-in-the-household. The net is determined by subtracting the expenses of disposing of the property from the equity value. This does not apply to negotiable financial instruments or stocks and bonds.
- f) Prorated Income
- Money which has been prorated as income, such as income of self-employed persons or students.
- g) Indian Lands
- Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs.
- h) Federal Statute Exclusions
- Assets excluded for food stamp purposes by express provision of Federal Statute.

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i) Licensed Vehicles

- 1) used primarily for producing income such as, but not limited to, a taxi, truck, or fishing boat. "Used primarily" means: used over 50% of the time the vehicle is used;
- 2) annually producing income consistent with its fair market value (even if only used on a seasonal basis);
- 3) necessary for long distance travel essential to employment, other than daily commuting (such as a sales person, migrant farmworker);
- 4) necessary for subsistence hunting or fishing (game and fish necessary for the livelihood of the household);
- 5) used as the household's home;
- 6) necessary to transport a physically disabled household member regardless of the purpose of such transportation. Only one vehicle per disabled person is allowed. The vehicle need not be specially equipped or used primarily for the transportation of the disabled individual;

*Agency Note: Exclusions (1)-(6) also apply when the vehicle is not in use because of temporary unemployment.

- 7) one licensed vehicle per household, regardless of its use when the equity value is less than 1/2 of the household's asset disregard--(see Section 121-59 for the asset-disregards);

- 8) the equity value (but not fair market value) of the equity value of one licensed vehicle for each adult household member one licensed vehicle per household, regardless of its use;

- 9) the equity value (but not fair market value) of any other licensed vehicles used by to transport household members under age 18 to drive to and from employment, training or education which is preparatory for employment, or to seek employment. In compliance with job search criteria. Temporary periods of unemployment are not to affect this exemption; and

- 10) any vehicle if the net proceeds would total less than \$1500 if sold; and

11) property, real or personal, to the extent that it is directly related to the maintenance or use of a vehicle excluded under subsections (i)(1), (i)(2) or (i)(3) of this Section.

j) Assets of a TANF APBE or SSI household member

All assets of a household member who receives TANF APBE or SSI benefits.

(Source: Amended at 25 Ill. Reg. 11856, effective AUG 31 2001)

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section 121.93 Issuance of Food Stamp Benefits

a) in areas where the Electronic Benefits Transfer (EBT) system is not in

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operation, the Department will mail food stamp coupons to all households eligible to receive food stamps directly to the participant's mailing address. A household may, however, request that its food stamp coupons be sent to the local office address instead of to the mailing address. Coupons mailed to the local office must be claimed by the household within five post office working days.

b) In areas where the EBT system is operative, Food food stamp benefits shall be issued to the payee via an electronic benefits account established by the Department through Electronic Benefits Transfer (EBT). The payee may access the benefits at any participating Point-Of-Sale (POS) terminal unless an administrative remedy in Section 121.94(d) of this Part has been imposed.

c) In areas where the Department has a contract or contracts with specific Direct Delivery Agents (DDAs) and the EBT system is not operative, the food stamp benefits will be delivered to the DDA for distribution to the client. If more than one DDA is available, the client may select the DDA of his or her choice. Clients may be exempted from participation in direct delivery for specific circumstances. (For example, client is in an educational or training program or employed and hours of attendance or employment prevent the client from picking up the food stamp benefits during normal business hours; client is permanently homebound and no proxy is available or client is in exempt status.) d) If direct delivery is not available and the EBT system is not operative, the client may elect to have the food stamp benefits delivered to the local public assistance office.

(Source: Amended at 25 Ill. Reg. 11856, effective AUG 31 2001)

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1) Heading of the Part: Managed Care Dental Plans

2) Code Citation: 50 Ill. Adm. Code 5425

<u>Section Number:</u>	<u>Adopted Action:</u>
5425.10	New Section
5425.20	New Section
5425.30	New Section
5425.40	New Section
5425.50	New Section
5425.60	New Section
5425.70	New Section
5425.80	New Section
5425.90	New Section

4) Statutory Authority: Implementing and authorized by the Dental Care Patient Protection Act [215 ILCS 109] and further authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

5) Effective Date of Rules: August 31, 2001

6) Do these rules contain an automatic repeal date? No

7) Do these rules contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: February 16, 2001, 25 Ill. Reg. 2654

10) Has JCAR issued a Statement of Objection to these rules? No

11) Differences between proposal and final version: Section 5425.30, in the definition of "Reasonable Travel Distance" add "from the residence or place of employment of the enrollee" following "minutes".

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these rules replace any emergency rules currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of rulemaking: The purpose of this Part is to implement the Dental Care Patient Protection Act. This Part will set forth guidelines for the formation of an advisory committee; require the

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filing and approval of a summary description and grievance procedure for managed care dental plans; and also identifies the point of service plan filing requirements.

16) Information and questions regarding these adopted rules shall be directed to:

Dave Grant
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 782-6369

The full text of the adopted rules begins on the next page:

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TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER kkk: HEALTH CARE SERVICE PLANS

PART 5425
MANAGED CARE DENTAL PLANS

Section	Purpose
5425.10	Applicability
5425.10	Definitions
5425.30	Dental Managed Care Advisory Committee
5425.40	Filing and Approval of Summary Description
5425.50	Filing and Approval of Grievance Procedure
5425.60	Filing of Point of Service Plan Requirements
5425.70	Material Modification to Summary Description, Grievance Procedure or Point of Service Plan
5425.80	Enforcement and Penalties
5425.90	

AUTHORITY: Implementing and authorized by the Dental Care Patient Protection Act [215 ILCS 109] and further authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Adopted at 25 Ill. Reg. 11869, effective 406-3-1-2001.

Section 5425.10 Purpose

The purpose of this Part is to implement the Dental Care Patient Protection Act. This Part will set forth guidelines for the formation of an advisory committee; require the filing and approval of a summary description and grievance procedure for managed care dental plans; and identify the point of service plan filing requirements.

Section 5425.20 Applicability

This Part applies to all managed care dental plans as defined in Section 5425.30 of this Part.

Section 5425.30 Definitions

Act means the Dental Care Patient Protection Act [215 ILCS 109].

Code means the Illinois Insurance Code [215 ILCS 5].

Dental Director means the dental director of the Illinois Department of Public Health.

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Dentist means a person licensed to practice dentistry in this State pursuant to the Illinois Dental Practice Act [225 ILCS 25].

Department means the Illinois Department of Insurance.

Director means the Director of the Illinois Department of Insurance.

Enrollee means an individual and his or her dependents who are enrolled in a managed care dental plan.

Grievance means a written notice relating to the managed care dental plan's determinations, procedures, and administration primarily expressing a complaint to the managed care dental plan by, or on behalf of, the enrollee, or by the dental care provider.

Managed Care Dental Plan or Plan means a plan that establishes, operates, or maintains a network of dentists that have entered into agreements with the plan to provide dental care services to enrollees to whom the plan has the obligation to arrange for the provision of or payment for services through organizational arrangements for ongoing quality assurance, utilization review programs, or dispute resolution. Managed care dental plans do not include employee or employer self-insured dental benefit plans under the federal ERISA Act of 1974.

Reasonable Travel Distance means a normal commute of no more than 30 miles or 30 minutes from the residence or place of employment of the enrollee.

Section 5425.40 Dental Managed Care Advisory Committee

Pursuant to Section 15 of the Act [215 ILCS 109/15] the Director is authorized to convene an advisory committee for the purpose of providing counsel and gathering clinical advice concerning dental managed care issues.

a) Such advisory committee shall be comprised as follows:

- 1) There will be a total of 5 members all of whom shall be dentists licensed to practice dentistry in this State pursuant to Section 15 of the Act [215 ILCS 109/15]; and
- 2) Two of the 5 members shall be dental directors from a managed care dental plan, or be a dentist designee on behalf of a plan, that is subject to the requirements of this Part and the Act; and
- 3) Two of the remaining 3 members shall be general dentists; and
- 4) The 1 remaining member shall be the dental director as defined in Section 5425.30 of this Part.

b) Each member of the advisory committee, except the dental director, shall be appointed by the Director for a term of 3 years. One additional term may be served if the member is re-appointed by the Director. When making appointments and/or filling vacancies to the advisory committee, the Director shall give due consideration to

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- written recommendations submitted by professional dental organizations.
- c) The advisory committee shall meet every 6 months. More frequent meetings are permissible, but will be scheduled at the discretion of the Director.

Section 5425.50 Filing and Approval of Summary Description

A managed care dental plan shall file a summary description of coverage for approval by the Department. The summary description shall contain all terms of coverage required by Section 25 of the Dental Care Patient Protection Act [215 ILCS 109/25]. The initial summary description shall be filed with the annual financial statement by March 1, 2002, pursuant to Section 2-7 of the Health Maintenance Act [215 ILCS 125/2-7], Section 2007 of the Limited Health Service Organization Act [215 ILCS 130/2007], Section 21 of the Voluntary Health Services Act [215 ILCS 165/21], Section 36 of the Dental Service Plan Act [215 ILCS 110/36] and Section 136 of the Code [215 ILCS 5/136]. In addition, each managed care dental plan is required to file a list of all participating dentists each year with its annual financial statement. Subsequent filings of the summary description will only be required pursuant to Section 5425.80 of this Part, if material modifications occur.

Section 5425.60 Filing and Approval of Grievance Procedure

Every managed care dental plan shall submit for the Director's approval, and thereafter maintain, a system for the resolution of grievances pursuant to Section 35(n) of the Act [215 ILCS 109/35(n)]. The initial grievance procedure shall be filed with the annual financial statement by March 1, 2002. Subsequent filings of the grievance procedure will only be required, pursuant to Section 5425.80 of this Part, if material modifications occur.

Section 5425.70 Filing of Point of Service Plan Requirements

Every managed care dental plan that is required to offer a point of service plan pursuant to the Act, except those plans that are licensed pursuant to Section 1001 of the Limited Health Service Organization Act [215 ILCS 130/1001] shall be required to file a description of its point of service plan with the Department.

a) The filing shall be comprised of:

- 1) A managed care dental plan filing and an indemnity filing. Such filing shall be coordinated by the managed care dental plan. The filing must contain reasonable financial incentives for the point of service member to utilize dental services provided or arranged by the designated managed care dental plan primary care provider and shall include:
 - A) Copies of all policy forms necessary to implement the point of service plan, including the member handbook used to integrate the services provided by the managed care dental

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- plan and the benefits provided by the indemnity carrier; and
- B) Enrollment application and member identification card disclosing the name of both the managed care dental plan and the indemnity carrier; and
 - C) Solicitation material; and
 - D) Copies of all administrative service contracts between the managed care dental plan and indemnity carrier detailing their respective responsibilities and obligations in offering a point of service plan; and
 - E) The managed care dental plan shall include in its rate filing the rate level justification and a demonstration of how the out-of-network indemnity benefits to be provided by the indemnity carrier will impact on the managed care dental plan's rates and underlying utilization assumptions. Such documentation shall be deemed confidential by the Department unless specific authorization for disclosure is given by the managed care dental plan; and
 - F) Written descriptions and illustrative flow charts of how the premium is received and distributed in a timely fashion and how claims will be handled for payment; and
 - G) A comparison of benefits offered by the managed care dental plan and the indemnity carrier.
- 2) Out-of-network claims shall be filed with the managed care dental plan. The managed care dental plan is responsible for coordinating payment of all claims.
 - 3) Covered services rendered by a participating provider without proper authorization shall be covered at the out-of-network benefit level.
 - 4) For purposes of coordination of benefits, the two policies comprising the point of service plan shall be considered one policy.
 - 5) For purposes of conversion and State continuation, when by statute the managed care dental plan must provide these provisions, they shall provide each enrollee who has a point of service plan the right to convert to either a managed care dental plan option or indemnity option. The managed care dental plan may, but is not required to, offer the enrollee the right to continue under a point of service plan option. Once the enrollee has chosen an option, the other plan's options will no longer be available. Should the enrollee choose to continue or convert coverage under a point of service plan, the plan shall meet applicable standards for Illinois conversion or continuation requirements. In the event of any inconsistency between these standards, then the most favorable to the enrollee shall apply.
- b) The initial point of service plan shall be filed with the annual financial statement by March 1, 2002. Subsequent filings of the point of service plan procedure will only be required, pursuant to Section 5425.80 of this Part, if material modifications occur.

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- c) A managed care dental plan licensed pursuant to Section 1001 of the Limited Health Service Organization Act [215 ILCS 130/1001] shall be subject to the point of service requirements contained in Section 3009 of the Limited Health Service Organization Act [215 ILCS 130/3009].

Section 5425.80 Material Modifications to Summary Description, Grievance Procedure or Point of Service Plan

A managed care dental plan shall file for approval with the Director, prior to use, any change in the summary description, grievance procedure, or point of service plan originally submitted pursuant to Sections 5425.50, 5425.60 or 5425.70 of this Part, respectively.

Section 5425.90 Enforcement and Penalties

- a) To enforce the provisions of this Part, the Director may issue a Cease and Desist Order and/or require a managed care dental plan to submit a plan of correction for violations of this Part or the Act.
- b) The Director may also impose an administrative fine, pursuant to Section 65 of the Act [215 ILCS 109/65], not to exceed \$1000, for failure to submit a requested plan of correction, failure to comply with its plan of correction, or repeated violations of this Part or the Act.

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Minimum Benefit Standards for Diabetes Coverage
- 2) Code Citation: 50 Ill. Adm. Code 2019
- 3)

<u>Section Number:</u>	<u>Adopted Action:</u>
2019.10	New Section
2019.20	New Section
2019.30	New Section
2019.40	New Section
- 4) Statutory Authority: Implementing Section 356w and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/356w and 401].
- 5) Effective Date of Rules: August 31, 2001
- 6) Do these rules contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: March 23, 2001, 25 Ill. Reg. 4105
- 10) Has JCAR issued a Statement of Objection to these Rules? No
- 11) Differences between proposal and final version:

In the rule header, "SUBCHAPTER 2: ACCIDENT AND HEALTH INSURANCE", has been added under the Title and Chapter designations, as required.

In Section 2019.40(a), add "the same" following "to" on the first line.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these rules replace any emergency rules currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: There has been some confusion by industry on how to interpret coverage for durable medical equipment and pharmaceuticals/supplies under Section 356w of the Illinois Insurance Code. This new rule will clarify coverage concerns related to the same coverage, deductible, copayments and coinsurance for durable medical equipment and pharmaceuticals/supplies.

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NOTICE OF ADOPTED RULES

- 16) Information and questions regarding these adopted rules shall be directed to:

Yvonne Clearwater
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 524-0194

The full text of the adopted rules begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE

PART 2019
MINIMUM BENEFIT STANDARDS FOR DIABETES COVERAGE

Section	Purpose
2019.10	Applicability and Scope
2019.20	Definitions
2019.30	Minimum Benefit Standards

AUTHORITY: Implementing Section 356w and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/356w and 401].

SOURCE: Adopted at 25 Ill. Reg. 11 8 7 6, effective AUG 31 2001.

Section 2019.10 Purpose

The purpose of this Part is to establish minimum benefit standards for diabetic pharmaceuticals, supplies and durable medical equipment coverage to be provided in this State.

Section 2019.20 Applicability and Scope

This Part shall apply to all group accident and health policies and health maintenance organization group contracts which are amended, delivered, issued or renewed in this State after the effective date of this Part. This Part shall not apply to agreements, contracts or policies that provide coverage for a specified diagnosis or other limited benefit coverage.

Section 2019.30 Definitions

"Durable Medical Equipment" means blood glucose monitors, blood glucose monitors for the legally blind, cartridges for the legally blind and lancets and lancing devices.

"Pharmaceuticals and Supplies" means insulin, syringes, needles, test strips for glucose monitors, FDA approved oral agents used to control blood sugar and glucagon emergency kits.

Section 2019.40 Minimum Benefit Standards

- a) Coverage for durable medical equipment shall be subject to the same deductible, copayment, and coinsurance provisions provided for other durable medical equipment, depending on whether such coverage is provided under the policy or a durable medical equipment rider to the

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policy. Such minimum benefit shall not apply to a group policy of accident and health insurance that does not provide durable medical equipment.

- b) Coverage for pharmaceuticals and supplies shall be subject to the same coverage, deductible, co-payment, and co-insurance provisions provided for other pharmaceuticals, depending on whether such coverage is provided under the policy or a drug rider to the policy. Such minimum benefit shall not apply to a group policy of accident and health insurance that does not provide drug coverage.

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Adopted Action:
140.400 Amendment
140.435 Amendment
140.436 Amendment
140.850 New Section
140.855 New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: September 1, 2001
- 6) Do these amendments contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register:
Sections 140.400, 140.435 and 140.436 - March 16, 2001 (25 Ill. Reg. 3806)
Sections 140.850 and 140.855 - April 20, 2001 (25 Ill. Reg. 5600)
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences Between Proposal and Final Version:

Section 140.400

In subsection (a), "advanced practice nurses" has been changed to "Advanced Practice Nurses (APN) nurses" and "Section 140.435(a)" has been changed to "Section 140.435".

Subsection (a)(2) has been revised as follows: "... his or her office by his or her staff, ~~7-90-long-as-such-practice-is-not-in-conflict-with-the Illinois-Nursing-Act-of-1987-{225-ILCS-65}-and-implementing-regulations--A certified--pediatric--nurse--practitioner--or--certified--family--nurse practitioner~~ An APN, as described in Section 140.435, may bill only for the services personally provided by the individual APN. ~~nurse practitioner---A--practitioner--may--not--bill--for--services-provided-by another-practitioner-even-though-he-or-she-may-be-in--the--employ--of--the other--~~

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The first sentence of subsection (a)(4) has been changed to read, ". . . pricing screens established by the Department except that an APN, as described in Section 140.435(a), of--Public--Aid--(Exception:--A-certified-pediatric-nurse--practitioner--certified--family nurse--practitioner--certified--registered--nurse-anesthetist-and-a-nurse midwife will be reimbursed for covered services. . .".

In subsection (b), "Providers" has been changed to "Practitioners".

Section 140.435

Subsection (a) has been revised to read, "For purposes of enrollment in the Medical Assistance Program, "Advanced Practice Nurse" means. . .".

Subsection (a)(1) has been revised to read, "Payment for certified nurse midwife services shall be made only to an Advanced Practice Nurse (APN) a registered-professional-nurse-(R.N.) who holds a valid Illinois license in the state of practice and is legally authorized under state law or rule regulation to practice as a nurse midwife nurse-midwife so long as such practice is not in conflict with the Nursing and Advanced Practice Nursing Act Illinois--Nursing--Act--of--1987 [225 ILCS 65] and its implementing rules regulations--and-has-completed-a-program-of-study-and clinical-experience-for-nurse-midwives-accredited/approved-by-the-American College-of-Nurse-Midwives. A certified nurse midwife nurse-midwife must have and maintain a current agreement. . .".

Subsection (a)(2) has been revised by changing "a registered professional nurse (R.N.)" to "an APN", deleting "their" after "[225 ILCS 60] and", changing "Accreditation Board" to lower case, and striking two sentences after "accreditation board".

Subsection (a)(3) has been revised by changing "a registered professional nurse (R.N.)" to "an APN", deleting "its" after "[225 ILCS 65], and replacing the last sentence with the following text: "For office-based anesthesia services, a certified registered nurse anesthetist must have and maintain a current agreement with a physician licensed to practice medicine in all its branches, a licensed dentist or licensed podiatrist, to provide office-based anesthesia services in the office of the physician, dentist or podiatrist."

The first sentence in subsection (b) has been revised to read, "The agreement required under Section 140.435 (a)(1), and (2) and (3) shall be in the following form described in the Nursing and Advanced Practice Nursing Act [225 ILCS 65] and implementing rules." The next six sentences have been stricken. The remaining text in subsection (b) has been revised to read, "The agreement a-copy-of-this-signed-agreement must be on--file with submitted to the Department with the initial application for enrollment. The agreement and must be updated annually and maintained on

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file at each practice location. The APN must notify the Department immediately if the agreement is dissolved and the enrollment will be terminated."

New text has been added to subsection (c) as follows: "For certified pediatric nurse practitioners and certified family nurse practitioners as described under subsection (a)(2) of this Section, a certification documenting the APN's specialty must be submitted to the Department with the initial application for enrollment."

Section 140.436

In subsection (c), "advanced practice nurses" and "advanced practice nurse" have been changed to "Advanced Practice Nurses" and "Advanced Practice Nurse", respectively.

Section 140.850

The first sentence has been revised by adding "medical assistance" before "program".

No other substantive changes have been made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
140.11	Amendment	July 6, 2001 (25 Ill. Reg. 8098)
140.445	Amendment	June 29, 2001 (25 Ill. Reg. 7808)
140.447	Amendment	June 29, 2001 (25 Ill. Reg. 7808)
140.475	Amendment	June 1, 2001 (25 Ill. Reg. 6855)
140.476	Amendment	June 1, 2001 (25 Ill. Reg. 6855)
140.477	Amendment	June 1, 2001 (25 Ill. Reg. 6855)
140.478	Amendment	June 1, 2001 (25 Ill. Reg. 6855)
140.479	Amendment	June 1, 2001 (25 Ill. Reg. 6855)
140.480	Amendment	June 1, 2001 (25 Ill. Reg. 6855)
140.513	New Section	August 24, 2001 (25 Ill. Reg. 10672)

15) Summary and Purpose of Amendments:

In Sections 140.400, 140.435 and 140.436, these amendments to the Department's administrative rules on medical payment provide changes regarding professional nursing services. Section 140.400 describes

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payment provisions for laboratories and practitioners, including physicians, dentists, nurses, optometrists, podiatrists and chiropractors. Laboratory references are being stricken since these services are described elsewhere in Part 140. Changes are being made to clarify that nurse services eligible for Department payment to a practitioner are provided by Advanced Practice Nurses including certified pediatric and family nurse practitioners, certified registered nurse anesthetists and certified nurse midwives.

In Section 140.435, certified registered nurse anesthetists are being added as a nurse service eligible for payment by the Department, and description is provided on Advanced Practice Nurses and their responsibilities. Also, text relating to coverage for private duty nursing services and in-home nursing services is being stricken. The latter changes are being made as clarifications because payment is provided for private duty nursing services only for children under the age of 21 years who are covered under a waiver, as described in Section 140.645, or are identified as needing the service through an EPSDT screening (Early and Periodic Screening, Diagnosis and Treatment Program), as described in Section 140.485. Home health services are covered only for special circumstances that can reasonably be expected to be short term and rehabilitative in nature. Home health services are described elsewhere in Part 140. Further clarifications are being made in Section 140.436 to describe reimbursement limitations pertaining to Advanced Practice Nurse services.

Sections 140.850 and 140.855

These amendments to the administrative rules on medical payment address monitoring of claims, by the Department, for federal reimbursement. These provisions are applicable to other State agencies and local government entities that provide services in support of medical assistance programs administered by the Department. These State and local entities are eligible for federal reimbursement regarding administrative expenditures related to the Department's Medical Assistance Program, when they enter into contractual agreements with the Department. The amendments describe the federal requirements concerning federal claiming for these entities and provide a review and reconsideration process concerning disputed claims. The amendments have been developed to inform prospective contractors of claiming requirements and to specify contractual obligations.

16) Information and questions regarding these adopted amendments shall be directed to: Joanne Jones

Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield Illinois 62763-0002

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(217) 524-0081

The full text of the adopted amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section
140.1 Incorporation By Reference
140.2 Medical Assistance Programs
140.3 Covered Services Under Medical Assistance Programs
140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.5 Covered Medical Services Under General Assistance
140.6 Medical Services Not Covered
140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
140.8 Medical Assistance For Qualified Severely Impaired Individuals
140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section
140.11 Enrollment Conditions for Medical Providers
140.12 Participation Requirements for Medical Providers
140.13 Definitions
140.14 Denial of Application to Participate in the Medical Assistance Program
140.15 Recovery of Money
140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.18 Effect of Termination on Individuals Associated with Vendor
140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
140.20 Submittal of Claims
140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
140.22 Magnetic Tape Billings (Repealed)
140.23 Payment of Claims
140.24 Payment Procedures
140.25 Overpayment or Underpayment of Claims
140.26 Payment to Factors Prohibited

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140.27 Assignment of Vendor Payments
140.28 Record Requirements for Medical Providers
140.30 Audits
140.31 Emergency Services Audits
140.32 Prohibition on Participation, and Special Permission for Participation
140.33 Publication of List of Terminated, Suspended or Barred Entities
140.35 False Reporting and Other Fraudulent Activities
140.40 Prior Approval for Medical Services or Items
140.41 Prior Approval in Cases of Emergency
140.42 Limitation on Prior Approval
140.43 Post Approval for items or Services When Prior Approval Cannot Be Obtained
140.55 Recipient Eligibility Verification (REV) System
140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice
140.72 Voucher Advance Payment and Expedited Payments
140.73 Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section
140.80 Hospital Provider Fund
140.82 Developmentally Disabled Care Provider Fund
140.84 Long Term Care Provider Fund
140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95 Hospital Services Trust Fund
140.96 General Requirements (Recodified)
140.97 Special Requirements (Recodified)
140.98 Covered Hospital Services (Recodified)
140.99 Hospital Services Not Covered (Recodified)
140.100 Limitation On Hospital Services (Recodified)
140.101 Transplants (Recodified)
140.102 Heart Transplants (Recodified)
140.103 Liver Transplants (Recodified)
140.104 Bone Marrow Transplants (Recodified)
140.110 Disproportionate Share Hospital Adjustments (Recodified)
140.116 Payment for Inpatient Services for GA (Recodified)
140.117 Hospital Outpatient and Clinic Services (Recodified)
140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.203 Limits on Length of Stay by Diagnosis (Recodified)
140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350 Copayments (Recodified)
140.360 Payment Methodology (Recodified)

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140.361 Non-Participating Hospitals (Recodified)
140.362 Pre July 1, 1989 Services (Recodified)
140.363 Post June 30, 1989 Services (Recodified)
140.364 Prepayment Review (Recodified)
140.365 Base Year Costs (Recodified)
140.366 Restructuring Adjustment (Recodified)
140.367 Inflation Adjustment (Recodified)
140.368 Volume Adjustment (Repealed)
140.369 Groupings (Recodified)
140.370 Rate Calculation (Recodified)
140.371 Payment (Recodified)
140.372 Review Procedure (Recodified)
140.373 Utilization (Repealed)
140.374 Alternatives (Recodified)
140.375 Exemptions (Recodified)
140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
140.391 Definitions (Recodified)
140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Payment to Practitioners--Nurses-and-Laboratories

140.400 Physicians' Services
140.410 Covered Services By Physicians
140.411 Services Not Covered By Physicians
140.412 Limitation on Physician Services
140.413 Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians
140.414 Optometric Services and Materials
140.416 Limitations on Optometric Services
140.417 Department of Corrections Laboratory
140.418 Dental Services
140.420 Limitations on Dental Services
140.421 Requirements for Prescriptions and Dispensing Items of Pharmacy Items - Dentists
140.422 Podiatry Services
140.425 Limitations on Podiatry Services
140.426 Requirement for Prescriptions and Dispensing of Pharmacy Items - Podiatry
140.427 Chiropractic Services

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140.429 Limitations on Chiropractic Services (Repealed)
140.430 Independent Clinical Laboratory Services
140.431 Services Not Covered by Independent Clinical Laboratories
140.432 Limitations on Independent Clinical Laboratory Services
140.433 Payment for Clinical Laboratory Services
140.434 Record Requirements for Independent Clinical Laboratories
140.435 Advanced Practice Nurse Services
140.436 Limitations on Advanced Practice Nurse Services
140.438 Imaging Centers
140.440 Pharmacy Services
140.441 Pharmacy Services Not Covered
140.442 Prior Approval of Prescriptions
140.443 Filling of Prescriptions
140.444 Compounded Prescriptions
140.445 Legend Prescription Items (Not Compounded)
140.446 Over-the-Counter Items
140.447 Reimbursement
140.448 Returned Pharmacy Items
140.449 Payment of Pharmacy Items
140.450 Record Requirements for Pharmacies
140.451 Prospective Drug Review and Patient Counseling
140.452 Mental Health Clinic Services
140.453 Definitions
140.454 Types of Mental Health Clinic Services
140.455 Payment for Mental Health Clinic Services
140.456 Hearings
140.457 Therapy Services
140.458 Prior Approval for Therapy Services
140.459 Payment for Therapy Services
140.460 Clinic Services
140.461 Clinic Participation, Data and Certification Requirements
140.462 Covered Services in Clinics
140.463 Clinic Service Payment
140.464 Healthy Moms/Healthy Kids Managed Care Clinics (Repealed)
140.465 Speech and Hearing Clinics (Repealed)
140.466 Rural Health Clinics
140.467 Independent Clinics
140.469 Hospice
140.470 Home Health Services
140.471 Home Health Covered Services
140.472 Types of Home Health Services
140.473 Prior Approval for Home Health Services
140.474 Payment for Home Health Services
140.475 Medical Equipment, Supplies and Prosthetic Devices
140.476 Medical Equipment, Supplies and Prosthetic Devices for Which Payment Will Not Be Made
140.477 Limitations on Equipment, Supplies and Prosthetic Devices
140.478 Prior Approval for Medical Equipment, Supplies and Prosthetic Devices

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140.479	Limitations, Medical Supplies
140.480	Equipment Rental Limitations
140.481	Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
140.482	Family Planning Services
140.483	Limitations on Family Planning Services
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140.485	Healthy Kids Program
140.486	Limitations on Medichex Services (Repealed)
140.487	Healthy Kids Program Timeliness Standards
140.488	Periodicity Schedule, Immunizations and Diagnostic Laboratory Procedures
140.490	Medical Transportation
140.491	Limitations on Medical Transportation
140.492	Payment for Medical Transportation
140.493	Payment for Helicopter Transportation
140.495	Psychological Services
140.496	Payment for Psychological Services
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SUBPART E: GROUP CARE

Section	
140.500	Long Term Care Services
140.502	Cessation of Payment at Federal Direction
140.503	Cessation of Payment for Improper Level of Care
140.504	Cessation of Payment Because of Termination of Facility
140.505	Informal Hearing Process for Denial of Payment for New ICF/MR Admissions
140.506	Provider Voluntary Withdrawal
140.507	Continuation of Provider Agreement
140.510	Determination of Need for Group Care
140.511	Long Term Care Services Covered by Department Payment
140.512	Utilization Control
140.513	Utilization Review Plan (Repealed)
140.514	Certifications and Recertifications of Care
140.515	Management of Recipient Funds--Personal Allowance Funds
140.516	Recipient Management of Funds
140.517	Correspondent Management of Funds
140.518	Facility Management of Funds
140.519	Use or Accumulation of Funds
140.520	Management of Recipient Funds--Local Office Responsibility
140.521	Room and Board Accounts
140.522	Reconciliation of Recipient Funds
140.523	Bed Reserves
140.524	Cessation of Payment Due to Loss of License
140.525	Quality Incentive Program (QUIP) Payment Levels
140.526	Quality Incentive Standards and Criteria for the Quality Incentive

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140.527	Program (QUIP) (Repealed)
140.528	Quality Incentive Survey (Repealed)
140.529	Payment of Quality Incentive (Repealed)
140.530	Reviews (Repealed)
140.531	Basis of Payment for Long Term Care Services
140.532	General Service Costs
140.533	Health Care Costs
140.534	General Administration Costs
140.535	Ownership Costs
140.536	Costs for Interest, Taxes and Rent
140.537	Organization and Pre-Operating Costs
140.538	Payments to Related Organizations
140.539	Special Costs
140.540	Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation
140.541	Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
140.542	Salaries Paid to Owners or Related Parties
140.543	Cost Reports-Filing Requirements
140.544	Time Standards for Filing Cost Reports
140.545	Access to Cost Reports (Repealed)
140.550	Penalty for Failure to File Cost Reports
140.551	Update of Operating Costs
140.552	General Service Costs
140.553	Nursing and Program Costs
140.554	General Administrative Costs
140.555	Component Inflation Index
140.560	Minimum Wage
140.561	Components of the Base Rate Determination
140.562	Support Costs Components
140.563	Nursing Costs
140.565	Capital Costs
140.566	Kosher Kitchen Reimbursement
140.567	Out-of-State Placement
140.568	Level II Incentive Payments (Repealed)
140.569	Duration of Incentive Payments (Repealed)
140.570	Clients With Exceptional Care Needs
140.571	Capital Rate Component Determination
140.572	Capital Rate Calculation
140.573	Total Capital Rate
140.574	Other Capital Provisions
140.575	Capital Rates for Rented Facilities
140.576	Newly Constructed Facilities (Repealed)
140.577	Renovations (Repealed)
140.578	Capital Costs for Rented Facilities (Renumbered)
140.579	Property Taxes
	Specialized Living Centers

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140.580	Mandated Capital Improvements (Repealed)
140.581	Qualifying as Mandated Capital Improvement (Repealed)
140.582	Cost Adjustments
140.583	Campus Facilities
140.584	Illinois Municipal Retirement Fund (IMRF)
140.590	Audit and Record Requirements
140.642	Screening Assessment for Nursing Facility and Alternative Residential Settings and Services
140.643	In-Home Care Program
140.645	Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21
140.646	Reimbursement for Developmental Training (DT) Services for Individuals with Developmental Disabilities Who Reside in Long Term Care (ICF AND SNF) and Residential (ICF/MR) Facilities
140.647	Description of Developmental Training (DT) Services
140.648	Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
140.649	Effective Dates of Reimbursement for Developmental Training (DT) Programs
140.650	Certification of Developmental Training (DT) Programs
140.651	Decertification of Day Programs
140.652	Terms of Assurances and Contracts
140.680	Effective Date Of Payment Rate
140.700	Discharge of Long Term Care Residents
140.830	Appeals of Rate Determinations
140.835	Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: FEDERAL CLAIMING FOR STATE AND LOCAL GOVERNMENTAL ENTITIES

MEDICAID-PARTNERSHIP-PROGRAM

Section	Reimbursement of Administrative Expenditures	General--Description
140.850	(Repealed)	
140.855	Administrative Claim Review and Reconsideration Procedure	Definition of Terms (Repealed)
140.860	Covered Services (Repealed)	
140.865	Sponsor Qualifications (Repealed)	
140.870	Sponsor Responsibilities (Repealed)	
140.875	Department Responsibilities (Repealed)	
140.880	Provider Qualifications (Repealed)	
140.885	Provider Responsibilities (Repealed)	
140.890	Payment Methodology (Repealed)	
140.895	Contract Monitoring (Repealed)	
140.896	Reimbursement For Program Costs (Active Treatment) For Clients In Long Term Care Facilities For the Developmentally Disabled (Repealed)	
140.900	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Repealed)	

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140.901	Functional Areas of Needs (Recodified)
140.902	Service Needs (Recodified)
140.903	Definitions (Recodified)
140.904	Times and Staff Levels (Repealed)
140.905	Statewide Rates (Repealed)
140.906	Reconsiderations (Recodified)
140.907	Midnight Census Report (Recodified)
140.908	Times and Staff Levels (Recodified)
140.909	Statewide Rates (Recodified)
140.910	Referrals (Recodified)
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TABLE B	Geographic Areas
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AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984;

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amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22,

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1988; Sections 140.900 thru 140.912 and 140.912 and 140.912 Table I reclassified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.205 and 147.205 Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 reclassified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 reclassified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 reclassified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 reclassified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826,

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effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; emergency amendment at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days;

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emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days, emergency expired

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April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective SEP-1-2001.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.400 Payment to Practitioners, Nurses and Laboratories

- a) This Section applies to physicians, dentists, Advanced Practice Nurses (APN) nurses (see Section 140.435), optometrists, podiatrists and chiropractors and independent laboratories.
- 1) Practitioners, nurses and independent laboratories are required to bill the Medical Assistance Program at the same rate they charge patients paying their own bills and patients covered by other third party payors.
 - 2) A practitioner or nurse may bill only for services he or she personally provides or which are provided under his or her direct supervision in his or her office by his or her staff, long-term as such practice is not in conflict with the Illinois Nursing Act of 1987 (225-BES-65) and implementing regulations. An APN, as described in Section 140.435, certified pediatric nurse practitioner or certified family nurse practitioner may bill only for the services personally provided by the individual APN, nurse practitioner. A practitioner may not bill for services provided by another practitioner even though he or she may be in the employ of the other.
 - 3) Payment will be made only in the practitioner's or nurse's name or a Department approved alternate payee.
 - 4) Payments will be made according to a schedule of statewide pricing screens established by the Department except that an APN, as described in Section 140.435(a), of Public Aid: (Exception: A certified pediatric nurse practitioner, certified family nurse practitioner and a nurse-midwife will be reimbursed for covered services at 70 percent of the established screen. Covered and covered services provided by qualifying providers

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under the Maternal and Child Health Program--which will be reimbursed at enhanced rates as described in subsection (b) of this Section. below--> The pricing screens are to be established based on consideration of the market value of the service. In considering the market value, the Department will examine the costs of operations and material. Input from advisory groups designated by statute, generally recognized provider interest groups and the general public will be taken into consideration in determining the allocation of available funds to rate adjustments. Increases in rates are contingent upon funds appropriated by the General Assembly. Reductions or increases may be affected by changes in the market place or changes in funding available for the Medical Assistance Program. Screens will be related to the average statewide charge. The upper limit for services shall not exceed the lowest Medicare charge levels.

- b) Practitioners Providers who meet the qualifications for and enter into a Primary Care Provider Agreement for participation in the Maternal and Child Health Program, as described in Subpart G, will receive enhanced reimbursement in accordance with Section 140.930(a)(1).
- c) The Department will distribute (initially and upon revision of the amounts) to practitioners--nurses--and--laboratories the maximum allowable amounts for the most commonly billed procedures codes. Interested individuals may request a copy of the maximum allowable amounts from the Department by directing the request to the Bureau of Comprehensive Health Services, Prescott E. Bloom Building, 201 South Grand Avenue East, Springfield, Illinois 62763-0001. In addition, a participating individual practitioner may request the maximum allowable amounts for less commonly billed specific procedures that relate to the individual's practice. This request must be in writing and identify specific procedure codes and associated descriptions.

(Source: Amended SEP-1 2001 25 Ill. Reg. 11880, effective

Section 140.435 Advanced Practice Nurse Services

- a) For purposes of enrollment in the Medical Assistance Program, "Advanced Practice Nurse" means a certified pediatric nurse practitioner, certified family nurse practitioner, certified nurse midwife or certified registered nurse anesthetist. Payment-for-nurse services-shall-be-made-only-to-licensed-nurses-

1) Payment for certified nurse midwife services shall be made only to an Advanced Practice Nurse (APN) a registered-professional nurse-(R-N-) who holds a valid Illinois license in the state of practice and is legally authorized under state law or rule regulation to practice as a nurse midwife nurse-midwife so long as such practice is not in conflict with the Nursing and Advanced

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Practice Nursing Act Illinois-Nursing-Act-of-1987 [225 ILCS 65] and its implementing rules (68 Ill. Adm. Code 1300) regulations and--has-completed-a-program-of-study-and-clinical-experience-for-nurse-midwives-accredited/approved-by--the--American--College--of-Nurse-Midwives. A certified nurse midwife nurse-midwife must have and maintain a current agreement with a physician licensed to practice medicine in all its branches who has hospital delivery privileges. A-copy-of-this-signed-agreement-must-be-on-file-with-the-Department-

- 2) Payment for certified pediatric nurse practitioner services practitioners and certified family nurse practitioner services practitioners shall be made only to an APN a---registered professional--nurse--(R-N-) who holds a valid Illinois license in the state of practice and is legally authorized under state law or rule to practice as a nurse practitioner so long as such practice is not in conflict with the Nursing and Advanced Practice Nursing Act Illinois-Nursing-Act-of-1987 [225 ILCS 65], the Medical Practice Act of 1987 [225 ILCS 60] and the implementing rules regulations. The nurse practitioner shall also have completed a program of study and clinical experience for certified pediatric nurse practitioners Practitioner or certified family nurse practitioners that practitioner-which is accredited and approved by the appropriate accreditation board Accreditation--Board. Certified--pediatric--nurse-practitioners must-be-certified-by-the-American-Nurses-Association--or--by--the National--Board--of-Pediatric-Nurse-Practitioners-and-Associates. A-certified-family-nurse-practitioner-must-be-certified-by--the American--Nurses--Association- A certified pediatric or family nurse practitioner must have and maintain a current agreement with the physician licensed to practice medicine in all its branches who has hospital admitting privileges including delivery privileges where applicable.

- 3) Payment for certified registered nurse anesthetist services shall be made only to an APN who holds a valid license in the state of practice and is legally authorized under state law or rule to practice as a nurse anesthetist so long as such practice is not in conflict with the Nursing and Advanced Practice Nursing Act [225 ILCS 65] and implementing rules. For office based anesthesia services, a certified registered nurse anesthetist must have and maintain a current agreement with a physician licensed to practice medicine in all its branches, a licensed dentist or licensed podiatrist, to provide office-based anesthesia services in the office of the physician, dentist or podiatrist.

b3) The agreement required under Section 140.435(a)(1), and (2) and (3) shall be in the following form described in the Nursing and Advanced Practice Nursing Act [225 ILCS 65] and implementing rules. This agreement--must-explain--the--oversight--of--the-nurse-by-a-physician

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Definition of Terms--(Repeated)

- a) The Department may reject all or any portion of a claim for federal reimbursement that is not in compliance with State or federal law, regulation, policy or applicable intergovernmental or interagency agreement. The claiming entity may request an informal review and reconsideration of the Department's decision to reject all or any portion of a claim for federal administrative reimbursement.
- b) The Department provides the following review procedure by which the State agency or local government entity may seek an informal review and reconsideration of the Department's decision to reject all or any part of a request for federal administrative reimbursement:
 - 1) The request for review must be submitted in writing to the Department.
 - 2) The request for review must be received by the Department within 30 days after the date of the Department's notice to the claiming entity of a Department adjustment to a claim.
 - 3) A request for review from the claiming entity shall include a clear explanation of the reason for the request and documentation supporting the desired correction.
 - 4) Review shall be limited to technical errors in calculations related to the cost allocation plan.
 - 5) The Department shall notify the claiming entity, in writing, of the results of the review within 30 days after receipt of the claiming entity's request for review.

(Source: Section repealed at 18 Ill. Reg. 18059, effective December 19, 1994; new Section added at 25 Ill. Reg. 11880-, effective SEP - 1 2001)

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- 1) Heading of the Part: Grade A Pasteurized Milk and Milk Products
- 2) Code Citation: 77 Ill. Adm. Code 775
- 3) Section Numbers:

775.10	<u>Proposed Action:</u>
775.20	Amendment
775.30	Amendment
- 4) Statutory Authority: Authorized by and implementing the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635].
- 5) Effective Date of Amendments: September 1, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Rulemaking Published in the Illinois Register: September 29, 2000 at 24 Ill. Reg. 14384
- 10) Has the Joint Committee on Administrative Rules issued a statement of objection to this rulemaking? No
- 11) Difference between proposal and final version: Multiple style and technical changes were made in response to comments from the Joint Committee on Administrative Rules and interested parties.
- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee?
Yes
- 13) Will the rulemaking replace any emergency rulemakings currently in effect?
No
- 14) Are there any other Amendments pending on this Part? Yes, amendments proposed May 4, 2001 at 25 Ill. Reg. 5846.
- 15) A Complete Description of the Subjects and Issues Involved: This rulemaking will update references to several documents that are incorporated by reference in Part 775. Documents that are being updated include the Grade A Pasteurized Milk Ordinance (PMO), the Methods of Making Sanitation Ratings of Milk Supplies (MMSR), the Procedures Governing the Cooperative State-Public Health Service/Food and Drugs

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICS
PART 775
GRADE A PASTEURIZED MILK AND MILK PRODUCTS

Section	
775.1	Minimum Regulations(Renumbered)
775.10	Definitions
775.20	Incorporated Materials
775.30	Minimum Requirements
775.40	Local Government Implementation
775.50	Permits
775.60	Suspension of Permits
775.70	Inspections and Investigations
775.80	Approval of Construction Plans
775.90	Administrative Hearings
775.100	Milk Haulers Examination
775.110	Milk Tank Trucks
775.120	Cleaning and Sanitizing Procedures
775.130	Action levels for Added Water in Milk
775.140	Pesticide, Herbicide and Mycotoxin Residue Control Program
775.150	Drug Residue Control Program

AUTHORITY: Implementing and authorized by the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635].

SOURCE: Adopted and codified at 8 Ill. Reg. 4190, effective March 16, 1984; amended at 11 Ill. Reg. 1464, effective February 1, 1987; amended at 12 Ill. Reg. 17925, effective December 1, 1988; amended at 17 Ill. Reg. 14015, effective August 15, 1993; amended at 19 Ill. Reg. 12271, effective August 10, 1995; amended at 22 Ill. Reg. 20633, effective November 10, 1998; amended at 24 Ill. Reg. 11904, effective SEP-1 2001.

Section 775.10 Definitions

In addition to the definitions contained in Part-II, Section 1 of the Grade A Pasteurized Milk Ordinance and Grade A Condensed and Dry Milk Products and Dry Whey Supplement, the following definitions shall apply:

"Act" means the "Grade A Pasteurized Milk and Milk Products Act" (1991-Stat-Ch-56-1727-par-2301-et-seq-) [410 ILCS 635].

"Bulk milk pickup tank tanker" means a vehicle, including the truck, tank, and those appurtenances necessary for its use, used by a milk hauler-sampler to transport bulk raw milk for pasteurization from a dairy farm to a transfer-station, receiving-station-or milk plant,

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Administration (FDA) Program for Certification of Interstate Milk Shippers (Procedures) and the incorporated sections of the Code of Federal Regulations, all published by the FDA and the Official Methods of Analysis of the Association of Official Analytical Chemists, published by the Association of Analytical Chemists.

16) Information and Questions Regarding these adopted amendments shall be directed to:

Paul D. Thompson, Staff Counsel
Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761-0001
217/782-2043
rules@dph.state.il.us

The full text of the adopted amendments begins on the next page:

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receiving station, or transfer station. (Section 3(b)(16) of the Act)

"Clarification" means an operational procedure that removes sediment from milk.

"Cleaning and sanitizing facility" means any place, premise or establishment where milk tank trucks are cleaned and sanitized. (Section 3(b)(15) of the Act)

"Cultured dairy products" means milk and milk products that have been soured after pasteurization using harmless lactic-acid producing bacteria, food grade phosphoric acid, lactic acid, citric acid or hydrochloric acid, with or without rennet and/or other safe suitable milk-clotting enzymes.

"Dairy farm" means any place or premise where one or more cows or goats are kept, and from which a part or all of the milk or milk products are provided, sold or offered for sale to a milk plant, transfer station, or receiving station. (Section 3(b)(1) of the Act)

"Department" means the Illinois Department of Public Health. (Section 3(b)(7) of the Act)

"Director" means the Director of the Illinois Department of Public Health. (Section 3(b)(8) of the Act)

"Down stream" means after the automatic milk flow safety device.

"Embargo or hold for investigation" means a detention or seizure designed to deny the use of milk or milk products which may be unwholesome or to prohibit the use of equipment which may result in contaminated or unwholesome milk or dairy products. (Section 3(b)(9) of the Act)

"Enforcing agency" means the Illinois Department of Public Health or a unit of local government electing to administer and enforce the Act as provided for in the Act. (Section 3(b)(12) of the Act)

"Field representative" means a person qualified and trained in the sanitary methods of production and handling of milk as set forth in this part, and generally employed by a processing or manufacturing plant for the purpose of doing quality control work.

"Grade A" means that milk and milk products are produced and processed in accordance with the latest United States Public Health Service-Food and Drug Administration Grade A Pasturized Milk Ordinance as may be amended. The term Grade A is applicable to "dairy farm", "milk

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hauler-sampler", "milk plant", "milk product", "receiving station", and "transfer station", "bulk milk pickup tank", and "certified pasteurizer sealer" whenever used in the Act. (Section 3(a) of the Act)

"High temperature short time flow-diversion device" or "H.T.S.T." means an automatic milk-flow safety device that controls the flow of milk in relation to the temperature of the milk or heating medium and/or pressure, vacuum, or other auxiliary equipment.

"Imminent hazard to the public health" means any hazard to the public health when the evidence is sufficient to show that a product or practice, posing or contributing to a significant threat of danger to health, creates or may create a public health situation that should be corrected immediately to prevent injury and that should not be permitted to continue while a hearing or other formal proceeding is being held. (Section 3(b)(10) of the Act)

"Milk" means the milk of cows or goats and includes skim milk and cream. (Section 3(b)(2) of the Act)

"Milkfat and Nonfat Solid Content Standards" means the standards set forth in 21 CFR 131.110. (1999). (See Section 775.20.)

"Milk hauler-sampler" means a person who is qualified and trained for the grading and sampling of raw milk in accordance with federal and state quality standards and procedures ~~transports-bulk-raw milk-for-pasteurization-from-a-dairy-farm-to-a-receiving-station, transfer-station, or milk-plant~~ (Section 3(b)(14) of the Act) and transports bulk raw milk for pasteurization from a dairy farm to a receiving station, transfer station, or milk plant. (Section 3(b)(16) of the Act)

"Milk product" means any product including cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified light cream, cultured sour cream, half-and-half, sour half-and-half, acidified sour half-and-half, cultured half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, skim milk, lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured milk, cultured lowfat milk, or skim milk, cottage cheese (including dry curd and lowfat), yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified lowfat milk, or skim milk, low-sodium milk, low-sodium lowfat milk, low-sodium skim milk, lactose-reduced milk, lactose-reduced lowfat milk, lactose-reduced skim milk, aseptically processed and packaged milk and milk products, and milk, lowfat milk or skim milk with added safe and suitable microbial organisms. (Section 3(b)(4) of the Act)

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"Milk tank truck" is the term used to describe both a bulk or milk pickup tanker and a milk transport tank.

"Milk transport tank" means a vehicle, including the truck and tank used by a milk hauler to transport bulk shipments of milk from a transfer station, receiving station or milk plant to another transfer station, receiving station or milk plant.

"PMO" means the Grade A Pasteurized Milk Ordinance incorporated by reference. (See Section 775.20.)

"Permit" means a document awarded to a person for compliance with the provisions of and under conditions set forth in the Act and this Part. (Section 3(b)(13) of the Act)

"Person" means any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, the State of Illinois, or any political subdivision or Department thereof, or any other entity. (Section 3(b)(11) of the Act)

"Quality assurance program" means the Milk and Dairy Beef Quality Assurance Program, Boeckman, Steve and Carlson, Keith R., Agri-Education Inc., Stratford, Iowa 50249 or equivalent program as determined by the Department.

"Receiving station Station" means any place, premise, or establishment where raw milk is received, collected, handled, stored or cooled and prepared for further transporting. (Section 3(b)(5) of the Act)

"Separation" means an operational procedure that removes butterfat from milk.

"Transfer station Stations" means any place, premise, or establishment where milk or milk products are transferred directly from one milk tank to another. (Section 3(b)(6) of the Act)

"Violative drug residue Drug-Residue" means a drug residue at or above the tolerance and/or safe levels as set forth in 21 CFR 6-P-R- 556 (1999)†199† and Appendix N of the PMO.

(Source: Amended at 24 Ill. Reg. **11904**, effective SFP - 1 2001)

Section 775.20 Incorporated Materials

- a) The following regulations and statutes materials are incorporated or referenced in this Part:

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1) Federal government publications:

A1) The Grade A Pasteurized Milk Ordinance (PMO), Part-II and Appendices A through P (except Sections 16 and 17) †1995† Recommendations of the United States Public Health Service/Food and Drug Administration, 1999 Revision (Publication 229). In addition, the jurisdiction name, left blank in Sections 1, 2, 3, 5, and 11 of the PMO, for the purposes of this Part, shall mean the State of Illinois; and the regulatory agency referred to in Section 1 shall mean the Illinois Department of Public Health. (See Section 775.30(a).)

B2) The Grade A Condensed and Dry Milk Ordinance, 1995 Revision, Part II and Appendices A through N (Grade A Condensed and Dry Milk products and Condensed and Dry Whey - Supplement I to the Grade A Pasteurized Milk Ordinance, 1995 Recommendations). (See Section 775.30(b).)

C3) Evaluation of Milk Laboratories (1995 Revision), U.S. Department of Health and Human Services, Public Health Service/Food and Drug Administration.

D4) Methods of Making Sanitation Ratings of Milk Supplies (1999 †1995 Revision), U.S. Department of Health and Human Services, Public Health Service/Food and Drug Administration.

E5) Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers (1999 †1995 Revision), U.S. Department of Health and Human Services, Public Health Service/Food and Drug Administration.

2) Private and professional standards:

A6) The Standard Methods for the Examination of Dairy Products (16th Edition, 1992, American Public Health Association, 1015 - 18th Street, N.W., Washington, D.C. 20036). (See Section 775.70(b).)

B7) Official Methods of Analysis of the Association of Official Analytical Chemists (16th 15th Edition, 1996 †1990, Association of Official Analytical Chemists, P.O. Box 540, Ben Franklin Station, Washington, D.C. 20044). (See Section 775.70(b).)

3) Federal regulations:

A8) 21 CFR 131.110 (1999) †199†. (See Section 775.10, the definition of "milkfat and nonfat solid content standards".)

B) 21 CFR 556 (1999). (See Section 775.10, the definition of "violative drug residue".)

4) State of Illinois rules and statutes:

A9) Illinois Plumbing Code - 77 Ill. Adm. Code 890, Illinois Department of Public Health. (See Section 775.30(c)(4).)

B†0) Minimum Qualifications for Public Health Personnel Employed

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by Full-time Local Health Departments - 77 Ill. Adm. Code 600.700 to 600.740, Illinois Department of Public Health. (See Section 775.740.)

C11) Rules of Practice and Procedure in Administrative Hearings - 77 Ill. Adm. Code 100, Illinois Department of Public Health. (See Section 775.90.)

12) 21--CFR--556--(1991)--(See--Section--775.107--the--definition-of--Violative-Drug-Residue--)
D13) The Veterinary Medicine and Surgery Practice Act of 1984 1983 [225 ILCS 115].

b) All incorporations by reference refer to the materials on the date specified and do not include any additions or deletions subsequent to the date specified.

c) All citations to federal regulations in this Part concern the specified regulation in the 1999 1991 Code of Federal Regulations, unless another date is specified.

d) Copies of all incorporated materials are available for inspection and copying by the public at the Department's Central Office, Division of Food, Drugs, and Dairies, 525 West Jefferson Street, Springfield, Illinois 62761.

(Source: Amended at 24 Ill. Reg. 119043 effective SEP - 1 2001)

Section 775.30 Minimum Requirements

a) The production, transportation, processing, handling, sampling, examination, grading, labeling and sale of all milk and milk products; the inspection of dairy herds, dairy farms and milk plants, receiving and transferring stations, and cleaning and sanitizing facilities; the suspension of permits to milk producers and haulers, shall be regulated in accordance with the provisions of Part II and Appendices A-through-M of the Grade A Pasteurized Milk Ordinance (PMO) and Appendices A through P (with the exception of Sections 16 and 17) of the PMO. (See Section 775.207.)

b) The production, manufacture, packaging, labeling and sale of all Grade A condensed milk, and Grade A dry milk products, and Grade A condensed whey and Grade A dry whey, for use in the commercial preparation of Grade A pasteurized milk products; the inspection of condensing plants and/or drying plants; and the suspension of permits to condensing plants and/or drying plants, shall be regulated in accordance with the provisions of Part II and Appendices A through N of the Grade A Condensed and Dry Milk Ordinance, 1995 Revision (Grade A Condensed and Dry Milk Products and Condensed and Dry Whey Supplement I to the Grade A Pasteurized Milk Ordinance). (See Section 775.207.)

c) In addition to the provisions contained in Section Sections 775.30(a) and (b), the following provisions shall apply:

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1) In addition to the provisions of Section 7, item 15p of the PMO: 7 A) All raw milk piping and equipment must be completely separated from pasteurized milk and milk product piping and equipment during processing. No raw milk piping or fittings shall be interchanged with pasteurized milk piping and fittings unless they have been washed and sanitized before use.

B) Heat treated and pasteurized milk or milk products that are not produced at the packaging plant, but, that are to be used within a plant for processing pasteurized milk or milk products shall be repasturized.

2) CA) No In--addition-to-the-provisions-of-Section-77-item-15p-of-the-PMO, no separation or clarification may occur down stream from any high temperature short time (H.T.S.T.) flow-diversion device.

DB) Blending of pasteurized milk or milk products may only occur down stream from the high temperature short time (H.T.S.T.) flow-diversion device when approved by the Department in accordance with the following specific requirements:

i) All pasteurized milk product lines, raw product lines and cleaning lines within the milk plant shall be labeled in such a manner that the lines can be differentiated by visual inspection. The specific configuration of the lines must be verified by a Department on-site inspection prior to the issuance or renewal of a permit. In addition, any segments of lines that are or can be removed for cleaning must be individually labeled.

ii) All products subject to blending down stream of the high temperature short time flow diversion device shall be required to undergo daily testing for standard plate count, coliform, phosphatase and salmonella. These analyses shall be conducted by a state certified laboratory and the results shall be maintained for one year.

iii) Cultured dairy products are exempt from this requirement.

23) In addition to the provisions of Section 6 of the PMO, it shall be the responsibility of each approved milk plant to retain from each processing day at least one time and date stamped sample from each continuous processing of a specific pasteurized fluid milk product as defined in the Grade A Pasteurized Milk Ordinance (see Section 1 of the PMO). These samples shall be of the pasteurized milk product itself and not of each type of container in which the milk product is packaged in. In addition, the samples shall be retained until two days after the guaranteed sale date in accordance with the refrigeration requirements of

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the PMO (see Section 7 of the PMO).

- 34) In addition to the provisions of Section 7, items 8r and 7p of the PMO, the Illinois Plumbing Code (77 Ill. Adm. Code 890) shall apply.

(Source: Amended at 24 Ill. Reg. 11904, effective SEP - 1 2001)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Boiler And Pressure Vessel Safety
- 2) Code Citation: 41 Ill. Adm. Code 120
- 3) Section Numbers: 120.11 Adopted Action: Amendment
- 4) Statutory Authority: Sections 2 and 2.1 of the Boiler and Presssure Vessel Safety Act [430 ILCS 75/2 and 2.1].
- 5) Effective Date of Rulemaking: January 1, 2002
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 25 Ill. Reg. 5156, April 13, 2001
- 10) Has JCAR issued a Statement of Objections to this amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The fee structure of the Office has been revised.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Mr. David Douin, Superintendent of Boiler Safety
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield IL 62703-4259

The full text of the adopted amendment begins on the next page:

OFFICE OF THE STATE FIRE MARSHAL

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TITLE 41: FIRE PROTECTION
CHAPTER I: STATE FIRE MARSHALPART 120
BOILER AND PRESSURE VESSEL
SAFETY

SUBPART A: DEFINITIONS AND ADMINISTRATION

Section	
120.4	Foreward (Repealed)
120.7	Kindly Observe the Following Briefs and Avoid Unnecessary Inconvenience (Repealed)
120.10	Definitions
120.11	Incorporation of National Standards
120.15	Fees
120.20	Administration
120.30	Inspectors, Examinations, Certificate of Competency and Commission
120.41	Special Inspector Trainee (Repealed)

SUBPART B: CONSTRUCTION, INSTALLATION, INSPECTION, MAINTENANCE, AND USE

Section	
120.100	New Installations of Boilers, Miniature Boilers, Heating Boilers and Hot Water Supply Boilers
120.105	Boiler Exemptions
120.200	New Installations of Pressure Vessels
120.205	Pressure Vessel Exemptions
120.300	Existing Installations of Power Boilers
120.400	Existing Installations of Miniature Boilers (Repealed)
120.500	Operation of Boilers and Pressure Vessels
120.600	Existing Installation of Pressure Vessels
120.700	General Requirements for all Boilers and Pressure Vessels (Repealed)
120.800	Nuclear Power Plant Components (Repealed)
120.900	Flame Safeguard Requirements and Incorporated Standards (Repealed)

SUBPART C: REPAIR AND ALTERATION

Section	
120.1000	Repairs and Alterations to Boilers and Pressure Vessels by Welding
120.1010	Authorization to Repair Boilers and Pressure Vessels
120.1020	Issuance and Renewal of the Certificate
120.1030	Changes to Certificates of Authorization
120.1040	Quality Control Requirements
120.1041	Repair and Alteration Requirements

SUBPART D: STATE SPECIALS

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Section
120.1100 Procedure for the Issuance of a State Special Permit

SUBPART E: REPAIR OF SAFETY AND SAFETY RELIEF VALVES

Section	
120.1200	Authorization for Repair of Safety & Safety Relief Valves
120.1210	Authorization to Repair ASME and National Board Stamped Safety and Safety Relief Valves
120.1220	Issuance and Renewal of the Certificate
120.1240	Changes to Certificates of Authorization
120.1250	Repairs to Safety and Safety Relief Valves
120.1260	Quality Control System
120.1270	Nameplates
120.1275	Field Repair
120.1280	Performance Testing of Repaired Valves
120.1285	Training of Valve Repair Personnel
120.1290	ASME "V", "UV" or National Board "VR" Certificate Holders

SUBPART F: OWNER-USER QUALITY CONTROL REQUIREMENTS

Section	
120.1300	Introduction
120.1301	Authority and Responsibility
120.1305	Organization
120.1310	Inservice Inspection Program
120.1320	Drawings, Design Calculations, and Specification Control
120.1325	Material Control
120.1330	Examination and Inspection Program
120.1335	Correction of Nonconformities
120.1340	Welding
120.1345	Nondestructive Examination
120.1350	Calibration of Measurement and Test Equipment
120.1355	Records
120.1360	Inspectors

APPENDIX A Operational and Maintenance Log

EXHIBIT A Hot Water Heating Boilers

EXHIBIT B Steam Heating Boilers

APPENDIX B Record of Welded Repair (Repealed)

AUTHORITY: Implementing the Boiler and Pressure Vessel Safety Act [430 ILCS 75] and authorized by Sections 2 and 2.1 of the Boiler and Pressure Vessel Safety Act [430 ILCS 75/2 and 2.1].

SOURCE: Boiler and Pressure Vessel Safety Act Rules and Regulations adopted at 4 Ill. Reg. 7, p. 126, effective January 31, 1980; codified at 5 Ill. Reg.

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10677; amended at 7 Ill. Reg. 6925, effective July 1, 1983; amended at 10 Ill. Reg. 9510, effective July 1, 1985; amended at 11 Ill. Reg. 16587, effective January 1, 1988; amended at 16 Ill. Reg. 6808, effective July 1, 1992; amended at 17 Ill. Reg. 14917, effective September 1, 1993; amended at 19 Ill. Reg. 11904, effective August 15, 1995; amended at 20 Ill. Reg. 9540, effective July 3, 1996; amended at 21 Ill. Reg. 997, effective January 1, 1997; amended at 23 Ill. Reg. 162, effective January 1, 1999; amended at 24 Ill. Reg. 18555, effective December 7, 2000; amended at 25 Ill. Reg. 11914, effective JAN - 1 2002.

SUBPART A: DEFINITIONS AND ADMINISTRATION

Section 120.15 Fees

As authorized by the Boiler and Pressure Vessel Safety Act, the Board hereby establishes the following fees to be collected for services rendered by the Division:

Examinations.....\$30525
Commissions
New Issuance.....\$25520
Renewal.....\$15510
All Certificates Certificate of Inspection.....\$35520

Inspections

Power Boilers

Internal Inspection

Boilers of 100-sq.-ft.-of-heating-surface-or-less.....\$30
Boilers over 100-sq.-ft.-of-heating-surface.....\$60
External Inspection.....\$30
Low-Pressure-Heating-Boilers-and-Hot-Water-Supply-Boilers
Internal-or-External-Inspection.....\$30
No more than \$120 shall be charged for any one boiler in any one year.

Inspections conducted by the Division

High Pressure and High Temperature Water Boilers

Boilers without a manhole.....\$30
Boilers with a manhole.....\$60
Low Pressure Steam and Water Boilers
Boilers without a manhole.....\$30
Boilers with a manhole.....\$60
Hot water supply boilers.....\$30
No more than \$120 shall be charged for one boiler in any one year.

Pressure Vessels

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Internal-or-External-inspection

Fees are based on the product of the overall length times the and-maximum width or diameter of the vessel expressed in square feet sq.-ft.

50 sq. ft. or less.....\$25
51 sq. ft. to 150 sq. ft.....\$50
over 150 sq. ft.....\$75

For each additional 100-sq.-ft.-or-portion-thereof.....\$25
No more than \$120 shall be charged for any one pressure vessel in any one year.

Annual Statements (Owner-Users).....\$35 per vessel

For statements covering not more than 25 vessels.....\$5 per vessel
For statements covering more than 25 but fewer than 101 vessels.....\$125
For statements covering more than 100 but fewer than 501 vessels.....\$250
For statements covering more than 500 vessels.....\$500

Miscellaneous

Witness a hydrostatic test.....\$100500
Joint reviews, audits, shop inspections
1/2 day.....\$3005250
Full day.....\$5005400
Plus expenses, including travel and lodging.

(Source: Amended at 25 Ill. Reg. 11914, effective JAN - 1 2002)

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Fire Prevention and Safety

2) Code Citation: 41 Ill. Adm. Code 100

3) Section Numbers: Adopted Action:

100.3 Amendment

100.4 Repeal

100.5 Repeal

100.7 Amendment

100.110 Repeal

APPENDIX A

4) Statutory Authority: Implementing and authorized by Section 9 of the Fire Investigation Act [425 ILCS 25/9]

5) Effective Date of Amendments: January 1, 2002

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal published in the Illinois Register: 25 Ill. Reg. 3776, March 16, 2001

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Differences between proposal and final version: Some editorial changes suggested by the Joint Committee on Administrative Rules were incorporated.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these Amendments replace any Emergency Amendments currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and purpose of Amendments: This amendment adopts the most recent edition of the *Life Safety Code* published by the National Fire Protection Association for both new and existing buildings.

16) Information and questions regarding these adopted amendments shall be directed to:

OFFICE OF THE STATE FIRE MARSHAL

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Jack Ahern

Office of the State Fire Marshal

1035 Stevenson Dr.

Springfield IL 62703-4259

The full text of the adopted amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHALPART 100
FIRE PREVENTION AND SAFETY

Section	
100.1	Introduction
100.3	Title, Jurisdiction, Powers, Penalties, Right of Entry, Existing Structures
100.4	Building Construction Types <u>(Repealed)</u>
100.5	Fire Areas <u>(Repealed)</u>
100.7	Adoption of NFPA 101, Life Safety Code by Reference
100.110	Modification of NFPA 101 (1985) for Existing Day Care Facilities and Programs <u>(Repealed)</u>

APPENDIX A Modification of Standards Referenced in NFPA 101 (Repealed)

AUTHORITY: Implementing and authorized by Section 9 of the Fire Investigation Act [425 ILCS 25/9].

SOURCE: Illinois Rules and Regulations for Fire Prevention and Safety, amended September 24, 1973; amended January 8, 1974; Rules and Regulations relating to Fireworks filed October 8, 1974; codified at 5 Ill. Reg. 10673; amended at 6 Ill. Reg. 13021, effective December 15, 1982; amended at 7 Ill. Reg. 16399, effective January 1, 1984; amended at 9 Ill. Reg. 1009, effective July 1, 1985; Sections 100.81, 100.82 and 100.85 recodified to 41 Ill. Adm. Code 105.5, 105.10 and 105.20 at 11 Ill. Reg. 5992; Part repealed, new Part adopted at 12 Ill. Reg. 8017, effective August 1, 1988; emergency amendment at 13 Ill. Reg. 582, effective January 3, 1989, for a maximum of 150 days; emergency expired June 2, 1989; amended at 13 Ill. Reg. 12547, effective July 14, 1989; amended at 17 Ill. Reg. 19127, effective November 1, 1993; amended at 20 Ill. Reg. 13086, effective September 20, 1996; amended at 21 Ill. Reg. 8932, effective July 15, 1997; amended at 22 Ill. Reg. 21330, effective December 15, 1998; amended at 25 Ill. Reg. 11919, effective JAN - 1 2001.

Section 100.3 Title, Jurisdiction, Powers, Penalties, Right of Entry, Existing Structures

- a) Title
This Part shall be known and cited as Fire Prevention and Safety Rules. They shall be referred to hereinafter as this Part.
- b) Jurisdiction
The provisions of this Part shall apply to all localities except such cities, towns and communities that have, or may hereafter, enact ordinances which are equal to or higher than this Part.
- c) Powers

- 1) The Office is authorized and directed to enforce the provision of this Part. The State Fire Marshal shall make, or cause to be

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made, inspections of buildings, structures and premises to determine their conformity with the provisions of this Part and their safety to life and property from fire or other emergency requiring evacuation of the building (such as presence of explosive or flammable gasses, fume hazard, and power failure).

- 2) Such inspections shall be made by the Office. Under the direction of the Office, the chief of the local fire department is hereby empowered and directed to make inspections in his geographical area of responsibility. Where any such inspection discloses a violation or violations of this Part, the State Fire Marshal or the local fire chief shall notify the owner, occupant, or other interested party in writing as provided in Section 9 of the Fire Investigation Act [425 ILCS 25/9] An Act relating to the investigation and prevention of fire (111 Rev. Stat. 1985, ch. 127-1/2, par. 9.) to correct said violation or violations. Violations shall be corrected within a reasonable time based upon the severity of the hazard and the work required to correct the violation.

- 3) The Office will inspect building based upon requests from agencies of state and local government, complaints from the public, known or observed violations, potential for loss of lives from fire in given occupancies where statutes, rules or regulations mandate inspections by the Office or where an inspection of a structure or an occupancy is necessary to prevent fire or to minimize the dangers of fire, in accordance with this Part, subject to available resources.

d) Penalty

The penalties for violation of the provisions of this Part shall be such as are provided in Section 9e of the Fire Investigation Act [425 ILCS 25/9e] "AN ACT relating to the investigation and prevention of fire" (111 Rev. Stat. 1985, ch. 127-1/2, par. 14).

e) Entry

The State Fire Marshal, his subordinates, the fire chief of any city, town, village, or fire protection district, or a subordinate delegated by said fire chief shall have the right within their respective geographical area of responsibility to enter any building or structure at any reasonable time for the purpose of making an inspection to determine whether or not there are any violations of this Part or the local ordinances for the protection of life and property from fire or other emergency. The inspector shall obtain permission from the owner, occupant, or other interested party to inspect and conduct an inspection at any reasonable time (generally, during regular business hours). Local officials having jurisdiction are empowered and directed to invoke any provisions of this Part to enforce correction of any condition hazardous to life and property from fire or other emergency.

f) Reference to Documents

Wherever a document is incorporated by reference in this Part, a copy

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of the document shall be kept on file in the Office, and shall be available for public inspection. Where standards are incorporated by reference in this Part, the incorporated material does not include any later editions or amendments.

- g) Where the term 'the authority having jurisdiction' is used, it shall mean the Office.

(Source: Amended at 25 Ill. Reg. 11919, effective
JAN - 1 2002)

Section 100.4 Building Construction Types (Repealed)

NFPA-101-(1985)-Chapter-6-2-1-references-NFPA-220-(1979)-"Standard-on-Types-of-Building-Construction"-for-determining-construction-requirements-for-various occupancies-The-required-construction-type-shall-be-determined-by-local ordinance-but-the-occupancy-must-meet-the-requirements-of-NFPA-101-for-that type-of-construction-as-defined-in-NFPA-220-for-the-occupancy-intended:

(Source: Repealed at 25 Ill. Reg. 11919, effective
JAN - 1 2002)

Section 100.5 Fire Areas (Repealed)

- a) A-fire-area-is-defined-as:-The-floor-areas-enclosed-and-bounded-by fire-walls-or-exterior-walls-of-a-building-to-restrict-the-spread-of fire-The-fire-area-of-buildings-in-all-classifications-of-these-rules and-regulations-shall-be-governed-by-local-law-or-ordinance:

- b) Where-there-are-no-local-laws-or-ordinances-governing-fire-areas-they shall-be-governed-by-the-limitations-established-in-the-Basic-Building Code---(1904)-of-the-Building-Officials-and-Code-Administrators International-Incorporated-Copies-made-by-obtained-at-the-following address:

Building-Officials-and-Code-Administration-International-Inc.
17926-S-Hatstead-Street
Homewood-Illinois-60430

(Source: Repealed at 25 Ill. Reg. 11919, effective
JAN - 1 2002)

Section 100.7 Adoption of NFPA 101, Life Safety Code by Reference

The Office of the State Fire Marshal adopts the "Code for Safety to Life from Fire in Buildings and Structures" as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code.

- a) For-the-purposes-of-subsections-(b)-and-(c)-of-this-Section:

- i) "New-facility"-shall-mean-either-a-facility-constructed-after November-17-1993-or-any-facility-the-occupancy---(use) classification-of-which-changes-after-November-17-1993-Any

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alterations-or-installations-of-new-equipment-either-regulated by-these-rules-or-outlined-in-the-Life-Safety-Code-shall-be accomplished-as-nearly-as-practicable-in-conformance-with-the requirements-for-new-construction:

- 2) "Existing-facilities"-are-those-not-classified-as-"new facilities"-by-subsection-(a)(1)-of-this-Section.
b) Applicable-to-existing-facilities-as-defined-in-subsection-(a)-of this-Section-the-Office-of-the-State-Fire-Marshall-adopts-the-Code for-Safety-to-Life-from-Fire-in-Buildings-and-Structures-as-published by-the-National-Fire-Protection-Association-(NFPA-101)-1905-edition, Life-Safety-Code-This-incorporation-does-not-include-any-later amendments-or-editions:
c) Applicable-to-any-new-facilities-as-defined-in-subsection-(a)-of-this Section-the-Office-of-the-State-Fire-Marshall-adopts-the-following provisions-of-the-Code-for-Safety-to-Life-from-Fire-in-Buildings-and Structures-as-published-by-National-Fire-Protection-Association-(NFPA 101)-1991-edition, Life-Safety-Code-to-the-extent-those-provisions-do not-conflict-with-the-provisions-of-this-Part-This-incorporation does-not-include-any-later-amendments-or-editions:

Chapter-1-Administrative

Chapter-2-Fundamental-Requirements

Chapter-3-Definitions

Chapter-4-Classification-of-Occupancy-and-Hazard-of-Contents

Chapter-5-Means-of-Egress

Chapter-6-Features-of-Fire-Protection

Chapter-7-Building-Service-and-Fire-Protection-Equipment

Chapter-8-New-Assembly-Occupancies

Chapter-10-New-Educational-Occupancies

Chapter-12-New-Health-Care-Occupancies

Chapter-14-New-Detention-and-Correctional-Occupancies

Chapter-16-New-Hotels-and-Dormitories

Chapter-18-New-Apartment-Buildings

Chapter-20-Bedding-or-Rooming-Houses

Chapter-22-New-Residential-Board-and-Care-Occupancies

Chapter-24-New-Mercantile-Occupancies

Chapter-26-New-Business-Occupancies

Chapter-28-Industrial-Occupancies

Chapter-29-Storage-Occupancies

Chapter-30-Special-Structures-and-High-Rise-Buildings

Chapter-31-Operating-Features

Chapter-32-Referenced-Publications

- ad) The Life Safety Code becomes the code for Fire Prevention and Safety subject to the modifications set forth in this Part. NFPA 101, Life Safety Code (2000 Edition 1905-and-1991 Editions) is on file with the Office of the State Fire Marshal at the following locations:

1035 Stevenson Drive
Springfield, Illinois 62703-4259

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State of Illinois Building
100 W. Randolph Street
Chicago, Illinois 60601

2209 West Main Street
Marion, Illinois 62959

Copies are available for purchase from:

National Fire Protection Association
Batterymarch Park
Quincy MA 02269

be) Modifications to the Life Safety Code

1) Child Care Facilities

A) Day Care Centers. Those facilities regulated under Chapters 16 and 17 Chapter-10-7 (Day-Care Centers) of the Life Safety Code shall include only:

- i) any facility licensed as a Day Care Center by the Department of Children and Family Services;
- ii) any unlicensed facility that regularly provides day care for less than 24 hours per day for more than 8 children in a family home, or more than 3 children in a facility other than a family home;
- iii) part day child care facilities, as defined in the Child Care Act of 1969.

B) Day Care Homes. Those facilities regulated under Chapters 16 and 17 Chapter-10-9 (Family Day-Care Homes) of the Life Safety Code shall include only:

- i) any facility licensed as a day care home by the Department of Children and Family Services;
- ii) any unlicensed facility that is a family home that receives more than 3 up to a maximum of 12 children for less than 24 hours per day. The number counted includes the family's natural or adopted children and all other persons under the age of 12. This subsection (b)(4)(1)(B) does not affect facilities that receive only children from a single household.

C) Group Day Care Homes. Those facilities regulated under Chapters 16 and 17 Chapter-10-8 (Group Day-Care Homes) of the Life Safety Code shall include only:

- i) any facility licensed as a group day care home by the Department of Children and Family Services; or
- ii) any unlicensed facility that is a family home that receives more than 3 up to a maximum of 16 children for less than 24 hours per day. The number counted includes the family's natural or adopted children and all other persons under the age of 12.

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D) For purpose of determining the classification of a child care facility, current Department of Children and Family Services guidelines will be applied.

2) Child-to-Staff Ratios

Child-to-Staff ratios in day care facilities shall comply with 89 Ill. Adm. Code 406 and 407 and with the Child Care Act of 1969. Any conflicting provisions of the Life Safety Code are inapplicable.

3) One- and Two-Family Dwellings

Chapter 2421 (One- and Two-Family Dwellings) is adopted as recommended guidelines only.

4) When clients occupy a level below the level of exit discharge in a day care home or group day care home occupancy, exiting shall be provided in accordance with the requirements of the applicable edition of the Life Safety Code, or with the following:

A) Primary Means of Egress

i) If an exit discharging directly to the outside at the basement level is not provided, and therefore occupants must traverse another level of the home to exit, the path of egress through the level of exit discharge shall be separated from the remainder of that level of the home by construction providing a minimum fire resistance rating of 1-hour, or

ii) The home shall be equipped with smoke detectors permanently powered by the building's electrical system and wired so that the actuation of one detector will actuate all the detectors in the dwelling. At least one such smoke detector shall be located on each level of the occupancy (excluding unoccupied attics), and the path of egress through the level of exit discharge (from the basement door to the exterior door of the home) must be protected by automatic fire sprinklers. Listed residential sprinklers shall be used and the installation shall be made in accordance with National Fire Protection Association Standard #13D, Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes - 1994 edition.

B) Secondary Means of Egress

if a window is used where the size is not in accordance with the applicable edition of the Life Safety Code, the owner or operator of the day care or group day care home must demonstrate to an on-site representative of the Office of the State Fire Marshal that all occupants (staff and clients) can escape through the window to the exterior of the home in 3 minutes or less. The bottom sill of any window used as a secondary means of escape shall be within 44 inches of the floor as required by the Life Safety Code, or

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approved arrangement that may affect the stability of the vessel;

- ii) Inspection of the underdock spaces to ensure watertight integrity of the vessel is maintained;
- iii) Inspection and report on the condition of the hull and watertight bulkheads;
- iv) Inspection and report on the condition of water tight doors and water tight bulkhead penetration; and
- v) Inspection and report on the condition of ventilator, hatch covers, and manhole covers.

This annual survey does not apply to United States Coast Guard Certified Vessels that are subject to their regulatory inspections.

- H) Inspection and Examination of Permanently Moored Vessels
 - i) Permanently moored vessels shall undergo drydock and internal structural examinations at intervals in accordance with 46 CFR 171.50-3 or present evidence of compliance with alternative methods of hull examination as may be deemed acceptable at the time, by the United States Coast Guard, for vessels that operate in fresh water.

- ii) Inspection of permanently moored vessels having steel or aluminum hulls may be performed in dry-dock or in-the-water. In-the-water inspections shall consist of an internal structural examination and a detailed non-destructive examination of the vessel's hull. The non-destructive hull examination may be performed by underwater inspection methods or from inside the vessel if all compartments are safely accessible. ("Safely accessible" shall be dependent upon the issuance of a "gas free certificate" by a certified marine chemist).

- iii) All structural and in-the-water examinations and inspections of permanently moored vessels shall be under the direction a registered professional engineer. Expertise of the engineer, or engineering team, shall include non-destructive testing methods and procedures, material engineering and naval architecture, material engineering knowledge of both general and specific corrosion types associated with welds and oxygen differential cells, as well as the effects of such types of corrosion on hull longevity.

- iv) The inspection techniques must be under the general direction of an American Society for Nondestructive Testing (ASNT) Level III Non-destructive Certified Technician. Inspections and measurements must be performed by an ASNT Level II (or higher) Non-destructive Certified Technician.

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a permanently fixed stair or ramp shall be installed at the window to allow occupants to be within 44 inches of the bottom window sill when standing atop the stair or ramp.

5) Permanently Moored Vessels

- A) Occupancies located on permanently moored floating vessels are subject to compliance with the applicable occupancy chapter of the Life Safety Code (2000 edition), the fire safety standards contained in National Fire Protection Association Standard 307, Standard for the Construction and Fire Protection of Marine Terminals, Piers and Wharves (1995 edition) and the criteria listed in this Section.

- B) A stability test shall be conducted by the licensee in accordance with 46 CFR, Subchapter S, Part 170, Subpart F. In lieu of a stability test, the licensee may elect to perform a Deadweight Survey to determine the Lightweight Displacement and Longitudinal Center of Gravity. The Vertical Center of Gravity shall be determined by a conservative estimate, subject to approval by a marine authority acceptable to the Office of the State Fire Marshal.

- C) The intact stability characteristics for each vessel must comply with the following criteria:

- i) 46 CFR, Subchapter S, Part 170, Subpart E, Sections 170.160, 170.170, and 170.173.

- ii) In lieu of compliance with Section 170.173, the licensee may elect to comply with alternate criteria for Vessels of Unusual Proportion and Form, as may be acceptable to the United States Coast Guard at that time, for certified passenger vessels.

- iii) 46 CFR, Subchapter S, Part 171, Subpart E, Section 171.050.

- D) All permanently moored vessels shall be required to comply with a one-compartment standard of flooding, as outlined in 46 CFR 171.070, regardless of the passenger capacity of the vessel.

- E) All permanently moored vessels shall be required to comply with Damage Stability Standards of 46 CFR, Subchapter S, Part 171, Subpart C, Section 171.080.

- F) Additionally, all vessels must comply with requirements for Stability After Damage (Damage Righting Energy Criteria) as may be acceptable to the United States Coast Guard at that time for certified passenger vessels.

- G) Additionally, an annual survey shall be conducted of permanently moored vessels to determine if structural changes exist which may affect the stability of the vessel. The survey shall consist of the following:

- i) General inspection of the superstructure and layout of outfitting to ensure there are no changes to the

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- v) The inspection results must be maintained in a format that will allow for examination by the Office of the State Fire Marshal's representatives, including comparison of results from the previous inspections.
- vi) Repairs using underwater welding shall be subject to periodic reevaluation at subsequent inspections. Such repairs shall be completed in accordance with the standards found in the American Welding Society's "Specifications for Underwater Welding".
- vii) The Office of the State Fire Marshal may require immediate dry-docking of the vessel if structural examinations and underwater inspections or repair work are not conducted in accordance with this Section.
- viii) All work shall be governed by and construed according to Illinois law effective on the execution date.
- I) Written documentation of compliance with the requirements of subsections (b)(5)(B) through (H) shall be furnished to the Office of the State Fire Marshal by the owner of the permanently moored vessel. Such documentation shall be certified by a marine authority approved by the Office of the State Fire Marshal.
- J) Permanently moored vessels, when occupied as public assembly occupancies in accordance with definitions given in the Life Safety Code, shall:
- i) Be equipped with an on-board electrical generator, sized and installed so as to be capable of supplying emergency back-up power to any required fire alarm systems, fire suppression equipment, emergency lighting circuits, communication equipment, bilge pumps, or vessel propulsion equipment;
 - ii) At all times occupied by more than 50 occupants, be staffed by personnel trained to initiate shipboard/vessel firefighting and evacuation duties; and
 - iii) In the event of an emergency that causes the vessel to be set adrift, be either capable of self-propulsion or be serviced by a tugboat or tender capable of controlling the vessel.

(Source: Amended at 25 Ill. Reg. 11919⁰⁰, effective
JAN - 1 2002)

Section 100.110 Modification of NFPA 101 (1985) for Existing Day Care
(Repealed)

a) Definitions-

"Day-Care-Center"--and--programs--are-defined-in-Section-2-09-of-the

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Child-Care-Act-of-1969-{225-IBES-10/2-09}-

"Child-Care-Facility"--is-defined-in-Section-2-05-of-the-Child-Care-Act-of-1969-{225-IBES-10/2-05}-

"Existing"--means-those-already-in-existence-on-August-17-1987-for-the-building-area-and-number-of-clients-on-that-date-

b) Existing-Day-Care-Facilities-and-programs-subject-to-inspection-by-the-Office-pursuant-to-the-Child-Care-Act-of-1969-{225-IBES-10}-and-which-provide-care-for-children-less-than-24-hours-per-day-shall-be-inspected-in-accordance-with-Chapter-11-of-NPPA-101-{1985}-

c) Child-to-Staff-ratio--shall-comply-with-89-111-Adm-Code-406-and-407-rather-than-NPPA-101-{1985}-Section-11-7-1-1-1-

d) Detection-alarm-and-communication-systems-for-Day-Care-Facilities-and-programs-shall-comply-with-the-following-rather-than-the-provisions-of-NPPA-101-{1985}-Section-11-7-3-4-

i) Day-Care-Facilities-and-programs-with-20--or--more--clients--or--located-above-or-below-the-level-of-exit-discharge-regardless-of-number-of-clients--shall-be-provided-with-a-fire-alarm-system--in-accordance--with--NPPA-101-{1985}-Section-7-6-7-and-must-adhere-to-the-following-

A) The-facility-must-include-a-smoke-detection--system--meeting-the---requirements---of--NPPA--72A--{1985}-with--detectors-installed-

i) on-the-uppermost-ceiling-of-each--interior--stairwell-and-on-every--level--{including-basements}-except-in-unoccupied-attics--and-at-the--beginning--and--end--of-each-corridor-200-or-more-feet-in-length--and

ii) in-front-of-doors-to-stairwells-and-at-intervals-of-no-less-than-30-feet-in-all-corridors-of-all-floors-used-by-the-child-care-facilities-and-programs--except--in-those--facilities--with--smoke-detection-in-every-room-off-every-corridor-used-by-the-child-care-facility-and-programs-

B) Rate-of-rise/fixed-temperature-fixed-temperature--or--other-fire--detectors--as-described-in-NPPA-72A-B-{1985}-shall-be-installed-in-boiler-rooms--kitchens--and--hazardous--and-combustible--storage--areas--except-where-a-sprinkler-system-with-a-flow-alarm-connected-to--the--fire--alarm--system--is-installed-in-such-rooms-

C) Initiation--of-the-fire-alarm-system--including-occupant-and-emergency-force-notification--shall-be-by-manual--means--and-by-operation-of-any-required-detectors-

B) Occupant--notification--must--be-in-accordance-with-NPPA-101-{1985}-Section-7-6-3-

B) Emergency-force-notification-in--accordance--with--NPPA--101-{1985}-Section-7-6-4-(a)-(d)-must-be-provided-where-the-day

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g) Door-closures-on-corridor-doors-required-by-NFPA-101-(1985)-Chapter-57 shall-be-installed-by-January-17-1990-or-7-each-room-without-a-required door-closure-shall-have-a-smoke-detector-meeting-the-requirements--of NFPA--72-A-B-installed-in-each-room-without-a-door-closure-in-addition to-the-required-fire-alarm-system.

(Source: Repealed at 25 Ill. Reg. 11919, effective JAN - 1 2002)

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Section 100.APPENDIX A Modification of Standards Referenced in NFPA 101 (Repealed)

Materials-referenced-in-NFPA-101-(1985)-Appendix-B-are-modified-as-follows:
NFPA-70-National-Electrical-Code-shall-be-the-1987-edition.

(Source: Repealed at 25 Ill. Reg. 11919, effective JAN - 1 2002)

STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Certification
- 2) Code Citation: 23 Ill. Adm. Code 25
- 3) Section Numbers: Emergency Action:
25.725 Amendment
25.760 Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.6, 14C-8, and Art. 21
- 5) Effective Date of Amendments: August 31, 2001
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable.
- 7) Date Filed in Agency's Principal Office: August 24, 2001
- 8) Reason for Emergency: The State Board of Education has been working for quite some time to develop enhancements to the test of basic skills that is currently required for initial certification in Illinois. After considerable investigation, an examination was identified that would meet the State's needs for a more rigorous assessment of the skills candidates need. Registration materials have identified the mid-September administration as the first instance when the new test would be required. However, it was only very recently determined that use of this test would also entail a change in the scoring methodology. The State Board finds that the public interest would be threatened by a failure to make these changes effective in time for the first administration of the new test, in that the basis for calculating the passing score must be accurately stated in rule before it is applied.

- 9) A Complete Description of the Subjects and Issues Involved: The test of basic skills that is currently used as one of the prerequisites for teacher certification in Illinois is divided into four subareas (reading, writing, grammar, and mathematics). Passage of this test requires a candidate to achieve a passing score in each of the subareas, but this will no longer be the case when a new, more rigorous test of basic skills is administered this fall. Consequently several provisions related to test scores need to be revised in order to conform to practices appropriate to the new test.

- 10) Are there any other proposed amendments pending on this Part? Yes

Sections	Amendments	Illinois Register Citation
25.725	Amendment	25 Ill. Reg. 8929, July 20, 2001
25.760	Amendment	25 Ill. Reg. 8929, July 20, 2001
23.15	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.115	Amendment	25 Ill. Reg. 11209, September 7, 2001

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23.125	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.127	New Section	25 Ill. Reg. 11209, September 7, 2001
23.130	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.135	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.136	New Section	25 Ill. Reg. 11209, September 7, 2001
23.137	Repeal	25 Ill. Reg. 11209, September 7, 2001
23.140	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.145	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.155	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.165	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.620	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.710	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.780	Amendment	25 Ill. Reg. 11209, September 7, 2001
23.805	Amendment	25 Ill. Reg. 11209, September 7, 2001

- 11) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a state mandate.

- 12) Information and questions regarding these amendments shall be directed to:

Pat Glenn
Division of Professional Certification
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
(217)782-3774

The full text of the Emergency Amendments begins on the next page:

STATE BOARD OF EDUCATION
NOTICE OF EMERGENCY AMENDMENTS
TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 25
CERTIFICATION
SUBPART A: DEFINITIONS

Section
25.10 Definition of Terms Used in This Part

SUBPART B: CERTIFICATES

Section
25.11 New Certificates (February 15, 2000)
25.15 Standards for Certain Certificates
25.20 Requirements for Initial Elementary Certificate
25.30 Requirements for Initial Secondary Certificate
25.35 Temporary Provisions for the Acquisition of Subsequent Standard Certificates
25.40 Requirements for Initial Special K-12 Certificate
25.43 Standards for Certification of Special Education Teachers
25.45 Standards for the Standard Special Certificate--Speech and Language Impaired
25.50 General Certificate (Repealed)
25.60 State Special Certificate, Grades 11-12, For Teaching Elective Subjects
25.65 Alternative Certification
25.67 Alternative Route to Teacher Certification
25.70 State Provisional Vocational Certificate
25.75 Part-time Provisional Certificates
25.80 Requirements for Initial Early Childhood Certificate
25.90 Transitional Bilingual Certificate and Examination
25.95 Majors, Minors, and Separate Fields for the Illinois High School Certificate
25.99 Endorsing Teaching Certificates

SUBPART C: APPROVING THE TEACHER EDUCATION PROGRAMS OF THE
TEACHER EDUCATION INSTITUTIONS OF THE STATE OF ILLINOIS

Section
25.110 System of Approval: Levels of Approval (Repealed)
25.115 Recognition of Institutions, Accreditation of Educational Units, and Approval of Programs
25.120 Standards and Criteria for Institutional Recognition and Program Approval (Repealed)

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25.125 Fifth-Year Review
25.130 Procedures for Initial Recognition as a Teacher Education Institution (Repealed)
25.135 Interim Provisions for Continuing Accreditation and Approval -- July 1, 2000, through June 30, 2003
25.137 Interim Provisions for Continuing Accreditation and Approval -- July 1, 1999, through June 30, 2000
25.140 Procedures for Approval of New or Modified Teacher Education Programs and Consortia (Repealed)
25.145 Approval of New Programs Within Recognized Institutions
25.150 The Periodic Review Process (Repealed)
25.155 Initial Recognition Procedures Effective July 1, 2000
25.160 Notification of Recommendations; Decisions by State Board of Education
25.165 Discontinuation of Programs

SUBPART D: SCHOOL SERVICE PERSONNEL

Section
25.210 Requirements for the Certification of School Social Workers
25.220 Requirements for the Certification of Guidance Personnel
25.230 Requirements for the Certification of School Psychologists
25.240 Standard for School Nurse Endorsement

SUBPART E: REQUIREMENTS FOR THE CERTIFICATION OF
ADMINISTRATIVE AND SUPERVISORY POSITIONS

Section
25.310 Definitions (Repealed)
25.311 Administrative Certificate
25.313 Alternative Route to Administrative Certification
25.315 Renewal of Administrative Certificate
25.320 Application for Approval of Program (Repealed)
25.322 General Supervisory Endorsement
25.330 Standards and Guide for Approved Programs (Repealed)
25.333 General Administrative Endorsement
25.344 Chief School Business Official Endorsement
25.355 Superintendent

SUBPART F: GENERAL PROVISIONS

Section
25.405 Military Service
25.410 Revoked Certificates
25.415 Credit in Junior College
25.420 Psychology Accepted as Professional Education
25.425 Individuals Prepared in Out-of-State Institutions
25.427 Three-Year Limitation
25.430 Institutional Approval

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NOTICE OF EMERGENCY AMENDMENTS

25.435 School Service Personnel Certificate--Waiver of Evaluations (Repealed)
 25.437 Equivalency of General Education Requirements (Repealed)
 25.440 Master of Arts NCATE
 25.442 Illinois Teacher Corps Programs
 25.445 College Credit for High School Mathematics and Language Courses
 25.450 Lapsed Certificates
 25.455 Substitute Certificates
 25.460 Provisional Special and Provisional High School Certificates
 25.465 Credit
 25.470 Meaning of Experience on Administrative Certificates
 25.475 Certificates and Permits No Longer Issued
 25.480 Credit for Certification Purposes
 25.485 Provisional Recognition of Institutions (Repealed)
 25.490 Rules for Certification of Persons Who Have Been Convicted of a Crime
 25.493 Part-Time Teaching Interns
 25.495 Approval of Out-of-State Institutions and Programs
 25.497 Supervisory Endorsements

SUBPART G: THE UTILIZATION OF TEACHER AIDES AND
OTHER NONCERTIFIED PERSONNEL

Section
 25.510 Teacher Aides
 25.520 Other Noncertificated Personnel
 25.530 Specialized Instruction by Noncertificated Personnel
 25.540 Approved Teacher Aide Programs

SUBPART H: CLINICAL EXPERIENCES

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Section
 25.705 Purpose - Severability
 25.710 Definitions
 25.715 Test Validation
 25.717 Test Equivalence
 25.720 Applicability of Testing Requirement
 25.725 Applicability of Scores
 EMERGENCY

25.728 Use of Basic Skills Test at Time of Entry into Teacher Education
 25.730 Registration
 25.732 Late Registration
 25.733 Emergency Registration

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25.735 Frequency and Location of Examination
 25.740 Accommodation of Persons with Special Needs
 25.745 Special Test Dates
 25.750 Conditions of Testing
 25.755 Voiding of Scores
 25.760 Passing Score

EMERGENCY

25.765 Individual Test Score Reports
 25.770 Rescoring
 25.775 Institution Test Score Reports
 25.780 Fees

SUBPART J: RENEWAL OF STANDARD AND MASTER CERTIFICATES

Section
 25.800 Professional Development Required
 25.805 Requirements of the Plan
 25.810 State Priorities
 25.815 Submission and Review of the Plan
 25.820 Review of Approved Plan
 25.825 Progress Toward Completion
 25.830 Application for Renewal of Certificate(s)
 25.832 Validity and Renewal of Master Certificates
 25.835 Review of and Recommendation Regarding Application for Renewal
 25.840 Action by State Teacher Certification Board; Appeals
 25.845 Responsibilities of School Districts
 25.848 General Responsibilities of LPDCs
 25.850 General Responsibilities of Regional Superintendents
 25.855 Approval of Illinois Providers
 25.860 Out-of-State Providers
 25.865 Awarding of Credit for Activities with Providers
 25.870 Continuing Education Units (CEUs)
 25.875 Continuing Professional Development Units (CPDUs)
 25.880 "Valid and Exempt" Certificates; Proportionate Reduction; Part-Time Teaching
 25.885 Funding; Expenses

APPENDIX A Statistical Test Equating - Certification Testing System
 APPENDIX B Certificates Available Effective February 15, 2000
 APPENDIX C Exchange of Certificates
 APPENDIX D National Board and Master Certificates

AUTHORITY: Implementing Article 21 and Section 14C-8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21, 14C-8, and 2-3.6].

SOURCE: Rules and Regulations to Govern the Certification of Teachers adopted September 15, 1977; amended at 4 Ill. Reg. 28, p. 336, effective July 16, 1982; amended at 7 Ill. Reg. 5429, effective April 11, 1983; codified at 8 Ill. Reg.

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1441; amended at 9 Ill. Reg. 1046, effective January 16, 1985; amended at 10 Ill. Reg. 12578, effective July 8, 1986; amended at 10 Ill. Reg. 15044, effective August 28, 1986; amended at 11 Ill. Reg. 12670, effective July 15, 1987; amended at 12 Ill. Reg. 3709, effective February 1, 1988; amended at 12 Ill. Reg. 16022, effective September 23, 1988; amended at 14 Ill. Reg. 1243, effective January 8, 1990; amended at 14 Ill. Reg. 17936, effective October 18, 1990; amended at 15 Ill. Reg. 17048, effective November 13, 1991; amended at 16 Ill. Reg. 18789, effective November 23, 1992; amended at 19 Ill. Reg. 16826, effective December 11, 1995; amended at 21 Ill. Reg. 11536, effective August 1, 1997; emergency amendment at 22 Ill. Reg. 5097, effective February 27, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 11767, effective June 25, 1998; amended at 22 Ill. Reg. 19745, effective October 30, 1998; amended at 23 Ill. Reg. 2843, effective February 26, 1999; amended at 23 Ill. Reg. 7231, effective June 14, 1999; amended at 24 Ill. Reg. 7206, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 9915, effective June 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12930, effective August 14, 2000; emergency amendment at 24 Ill. Reg. 16109, effective October 12, 2000; emergency amendment suspended at 25 Ill. Reg. 3718, effective February 21, 2001; emergency amendment repealed by joint resolution of the General Assembly, effective May 31, 2001; emergency amendment at 25 Ill. Reg. 9360, effective July 1, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 11935, effective August 31, 2001, for a maximum of 150 days.

SUBPART I: ILLINOIS CERTIFICATION TESTING SYSTEM

Section 25.725 Applicability of Scores

EMERGENCY

- a) Each person seeking certification in Illinois must pass the test of basic skills.
- b) Each person seeking certification must pass the appropriate test of subject matter knowledge, as set forth in Section 25.720(b) and (c) of this Part, for each certificate sought.
- c) For each person seeking his or her first Illinois certificate, neither the score scores on the subareas-of-the basic skills test nor the score on the subject matter test may be more than five years old at the time application is made. The five-year period shall be calculated from the date the test was taken and passed to the date of receipt of the application by the State Board of Education. Scores more than five years old will not be accepted as part of an application.
- d) A person who has passed the basic skills test and has been issued a certificate shall not be required to retake the basic skills test when seeking any subsequent certificate.
- e) For persons seeking subsequent certificates, the subject matter test score upon which each application is based shall be no more than five years old, such five-year period to be calculated from the date the test was taken and passed to the date of receipt of the application by

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the State Board of Education. Score more than five years old will not be accepted as part of an application.

- f) Any person may retake any test during any subsequent, regularly scheduled administration of that test, subject only to registration in accordance with the provisions of this Subpart.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 11935, effective August 31, 2001, for a maximum of 150 days)

Section 25.760 Passing Score

EMERGENCY

- a) The passing raw score will be established for each test by the State Board of Education, in consultation with the State Teacher Certification Board, based upon the professional judgments and recommendations of committees of Illinois educators about the acceptable, minimal level of performance for entry-level educators in Illinois classrooms.
- b) The raw score for each test of subject matter knowledge and for each subarea-of the test of basic skills shall be transformed to a scaled score ranging from 0 to 100, with 70 established as the passing score. The passing raw score shall always be equal to a scaled score of 70. The following formula shall be used to transform raw scores to scaled scores, where MAX means the maximum raw score, CUT means the passing raw score and X means the number of items correct:
 - 1) If X is greater than or equal to CUT, then the scaled score is 70 + 30[(X - CUT)/(MAX - CUT)].
 - 2) If X is less than CUT, then the scaled score is 70X/CUT.
- c) Scaled scores are rounded to the nearest integer except between 69 and 70. To ensure that a score just below passing is not equated with a scaled score of 70, scaled scores between 69 and 70 will be considered 69.
- d) In order to pass the basic skills test, a person must receive a passing score on the test as a whole and must also receive at least the minimum acceptable score in each of the subareas of reading, writing, language arts, and mathematics each--of--the--subarea--tests during-a-single-test-administration. A-person-failing-to-pass-any-one-of--the--subarea--tests--shall--be-required-to-retake-all-four-subarea tests.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 11935, effective August 31, 2001, for a maximum of 150 days)

ENVIRONMENTAL PROTECTION AGENCY
NOTICE OF PUBLIC HEARING ON PROPOSED RULES

- 1) Heading of the Part: Procedures to be Followed in the Performance of Inspections of Motor Vehicle Emissions
- 2) Code Citation: 35 Ill. Adm. Code 276
- 3) Register Citation to Notice of Proposed Rules: 25 Ill Reg. 10973; August 31, 2001.
- 4) Date, Time and Location of Public Hearing: The Illinois Environmental Protection Agency will hold a public hearing at 10:00 A.M. on September 28, 2001 at the Illinois EPA's Elk Grove Village office at 831 Busse Road, Elk Grove Village, Illinois
- 5) Other Pertinent Information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of August 28, 2001 through September 4, 2001 and have been scheduled for review by the Committee at its September 11, 2001 or October 16, 2001 meetings in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
10/11/01	Illinois Liquor Control Commission, Beverage Alcohol Sellers and Servers Education and Training (BASSET) Programs (77 Ill Adm Code 3500)	6/22/01 25 Ill Reg 7531	9/11/01
10/11/01	Illinois Liquor Control Commission, The Illinois Liquor Control Commission (11 Ill Adm Code 100)	7/13/01 25 Ill Reg 8527	9/11/01
10/12/01	Department of Human Services, Practice in Administrative Hearings (89 Ill Adm Code 14)	6/1/01 25 Ill Reg 6822	9/11/01
10/18/01	Department of Human Services, Temporary Assistance for Needy Families (89 Ill Adm Code 112)	5/11/01 25 Ill Reg 6012	10/16/01
10/18/01	Capital Development Board, Standards for Award of Grants: School Construction Program (71 Ill Adm Code 40)	7/6/01 25 Ill Reg 8054	10/16/01

